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OF RACIAL DISCRIMINATION

REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9
OF THE CONVENTION

Ninth periodic report of States parties due in 1998

Addendum

Colombia*

[15 June 1998]

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* This document contains the eighth and ninth periodic reports, due on 2 October 1996 and 1998, respectively. For the sixth and seventh periodic reports of Colombia and the summary records of the meetings at which the Committee considered those reports, see documents CERD/C/257/Add.1 and CERD/C/SR.1135 and 1136.

The annexes submitted by Colombia may be consulted in the secretariat's files.

The information submitted by Colombia in accordance with the consolidated guidelines for the initial part of the reports of States parties is contained in the basic document HRI/CORE/1/Add.56/Rev.1

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I. GENERAL INFORMATION ON THE REPUBLIC OF COLOMBIA

A. Population

1. According to the latest estimates, Colombia's 603,280 indigenous inhabitants represent 2 per cent of its population of 37 million. The Afro-Colombian population of about 6 million inhabitants accounts for 16 per cent of the total population.

2. In addition to Spanish, which is recognized as the national language, Colombia has a rich linguistic source in its indigenous and Afro-Colombian communities. Sixty-four aboriginal languages belonging to 13 linguistic families have been identified: Chibcha, Arawak, Caribe, Macro-Tukano, Witoto, Sikuani, Quechua, Kamsa, Kofan, Nukak-Makú, Bora, Saliba and Puinabe. Some indigenous groups within the Afro-Colombian communities continue to use linguistic and indigenous expressions and speak their own dialects, such as Palenquero and Creole, found in the communities of San Basilio de Palenque and the islands of San Andrés, Providencia and Santa Catalina, respectively, in the Atlantic region; in the Pacific region, some Black communities continue to use expressions inherited from their African ancestors.

3. Article 10 of the 1991 Constitution recognizes the languages and dialects of ethnic groups as official in their territories and stipulates that the education provided in communities with their own linguistic traditions will be bilingual; in addition, curricula are now geared to the ethnic features of the different communities (ethno-education).

4. According to article 19 of the Constitution, "Freedom of religion is guaranteed. Every individual has the right freely to profess his/her religion and disseminate it individually or collectively". The most recent demographic data show 95 per cent of the population as being Roman Catholic, with other religions accounting for the remaining 5 per cent.

5. Article 67 of the Constitution stipulates: "Education is an individual right and a public service that has a social function ... The State, society and the family are responsible for education, which shall be mandatory between the ages of 5 and 15 years and which shall include a minimum of one year of pre-school instruction and nine years of basic instruction".

B. The Government's human rights policies

6. Human rights problems are closely connected with the existence of multiple forms of violence whose limits are difficult to determine, owing in particular to the continuing internal armed conflict which Colombia is experiencing. To deal with this situation, President Samper's Government has designed a comprehensive and long-term policy for the promotion, protection and defence of human rights and the dissemination and implementation of international humanitarian law.

7. Government policy in respect of human rights and international humanitarian law encompasses the following areas of action, which are described in annex No. 7:

Humanization of the armed conflict;

Action to combat private justice groups;

Cooperation with the Office of the United Nations High Commissioner for Human Rights;

Action to combat impunity;

Support for human rights mechanisms;

Strengthening of assistance to people displaced as a result of the violence;

Comprehensive human rights plan for the police and the armed forces;

Follow-up and implementation of the recommendations of international human rights bodies;

Protection of the human rights of street people; and

Human rights education.

This policy is aimed at involving all of the government bodies working in the field of human rights and developing the best possible relations of understanding and cooperation with the courts and regulatory bodies.

C. Strengthening of institutions

8. On 31 July 1995, Presidential Decree No. 1290/95 established the Commission to Analyse and Evaluate the Implementation of the Recommendations of International Human Rights Bodies. It is composed of the Minister for Foreign Affairs, who chairs it, the Minister of the Interior, the Minister of Justice and Law, the Minister of Defence, the Director of the National Department of Planning, the Director of the Administrative Department of Security (DAS), the Presidential National Security Adviser, a representative of the Office of the High Commissioner for Peace and the Presidential Human Rights Adviser, who acts as Secretary.

9. This high-level body was established in October 1995 and has been meeting periodically. Its primary function is to work towards the implementation of recommendations made by intergovernmental human rights bodies and the experts appointed by them on the human rights policies to be adopted by the Government (particularly with regard to civil and political rights), especially aspects relating to provisions of the Political Constitution, the legislation in force and international treaties to which Colombia is a party.

10. In cooperation with the human rights commissions and plenary sessions of the two legislative chambers, the international treaties to which Colombia is not a party are being reviewed for the purpose of bringing domestic legislation into line with the most recent developments in international instruments produced by the competent intergovernmental bodies.

11. With financial and technical support from the Royal Government of the Netherlands, a systematized communications network has been set up for the

exchange of information among State, governmental and non-governmental human rights bodies, making it possible to collect and transmit complaints and other information connected with cases of human rights violations throughout the national territory, refer them to the bodies dealing with investigation and penalties, institute urgent action to protect those concerned and ensure systematic follow-up of proceedings.

12. Act No. 199 of 22 July 1995 changed the Spanish title of the Ministry of the Interior (from "Ministerio de Gobierno" to "Ministerio del Interior") and made it responsible for coordinating the activities of all executive bodies responsible for the protection, defence and promotion of human rights; the Act also established a Special Human Rights Administrative Unit in charge of action in the following areas: implementing a protection programme for persons under threat, taking action aimed at prevention and relaxation of tensions and assisting persons who have been internally displaced as a result of the violence.

13. The Unit's work in protecting persons at risk focuses on political leaders and activists (of the opposition in particular), leaders and activists of social organizations, human rights activists and witnesses in cases of serious violations of human rights or international humanitarian law.

14. Article 5 of Act No. 199 of 1995 establishes the following functions of the Ministry of the Interior in the area of interest to us:

(a) To work in coordination with the competent bodies to safeguard the cultural identity of minorities in the framework of the ethnic and cultural diversity and the right to equality of all the cultures that make up Colombian nationality;

(b) To guarantee the rights of particular ethnic groups and ensure that their economic and social development is promoted according to the constitutional and legal provisions in force, without prejudice to functions within the purview of other competent government bodies;

(c) To guarantee equal opportunity with the rest of Colombian society by promoting government-sponsored activities to that end;

(d) To work to help overcome conflicts arising from indigenous groups' right to traditional production practices and collective ownership of property, especially that of the Black communities which have been occupying uncultivated land in the rural areas bordering the rivers of the Pacific Basin, in accordance with the relevant legal provisions, in the areas within its competence;

(e) To promote the participation of the Black and indigenous communities and their organizations, without detriment to their independence, in decisions affecting them and decisions at the national level on the basis of equality, according to the law;

(f) To provide support and serve as guarantor for the work of bodies and authorities responsible for environmental protection, bearing in mind the communities' relationship with nature.

15. This legal initiative has provided the Afro-Colombian and indigenous communities with a higher-ranking ministry to assist them in dealing with the Government and society in general and to work for their economic and social development in a participatory framework.

16. Decree No. 0372 of 1996 established rules governing the above-mentioned Act No. 199 of 1995. Article 50 of the Decree provides for the establishment of the Governmental Human Rights Council, with the following membership: the Minister of the Interior, who chairs it, the Ministers of Justice and Law, National Defence and Education, the directors of the National Department of Planning and the Administrative Department of Security, the Presidential Human Rights Adviser and Presidential National Security Adviser, the High Commissioner for Peace, the Director-General of the Special Human Rights Administrative Unit of the Ministry of the Interior and representatives of the other bodies of the executive branch having responsibilities in the area of human rights. The Attorney-General of the Nation and the People's Advocate are invited to participate, as are representatives of non-governmental organizations and civil society. The Council, which was installed on 9 September 1997, National Human Rights Day, will have responsibilities in the following areas:

(a) Promoting the Government's human rights agenda;

(b) Cooperating with human rights non-governmental organizations, civil society and regulatory bodies in developing human rights policies;

(c) Providing the executive branch with guidelines to ensure that priority is given to the preservation of the right to life, physical integrity and liberty; and providing follow-up of inter-agency programmes and activities having the same objective;

(d) Responding to suggestions by the Commission to Analyse and Evaluate the Implementation of the Recommendations of International Human Rights Bodies;

(e) Promoting coordination procedures at the national, regional and local levels of government and with civil society aimed at preventive action to provide protection and assistance in particularly serious cases of human rights violations;

(f) Harmonizing any measures taken by the Government to maintain public order with preventive measures aimed at protecting human rights;

(g) Meeting immediately to take preventive action or corrective measures in cases of threats to or serious violations of human rights.

17. Decree No. 1165 of April 1997 established the Office of the Presidential Adviser for the Care of the Population Displaced by the Violence, whose role is to coordinate the implementation of government policy in this regard.

II. THE INDIGENOUS COMMUNITIES OF COLOMBIA

A. General

18. In 1995, when the policy for this ethnic group was adopted, the indigenous community was in the situation described below.

19. Approximately 603,000 indigenous persons belonging to 81 peoples live in Colombia; they account for close to 2 per cent of the population of the country. These peoples have diverse sociocultural characteristics and engage in activities ranging from hunting and gathering, fishing and itinerant gardening, found mostly in the forest, savannah and tropical desert, to peasant economy activities such as agriculture and cattle grazing in the Andean zones. Artisanal mining, trade and seasonal labour are practised in some communities. A process of urbanization is also taking place in some communities, such as the Ingas and Muiscas.

20. Indigenous peoples base their social systems on reciprocity, redistribution and a specific world view, which encompass all aspects of their ways of life and their territories (social, cultural, economic and political aspects and the relationship with nature).

21. Social and regional development has been influencing the living conditions and identity of these peoples, especially with regard to the recognition of their individual and collective ethnic rights, their ways of life, standard of living, culture and ability to take advantage of the possibilities offered by development to reassert themselves as peoples.

22. In terms of health, each indigenous culture has its own particular way of explaining the world around it, especially where the classification, prevention and treatment of disease are concerned. Indigenous peoples' health problems are linked to the weakening of their culture, environmental deterioration and their lack of access to State-sponsored health services owing to cultural differences and geographical location.

23. In a few regions of the country, traditional indigenous medicine is the principal ongoing health service and an important support for indigenous culture. One of the goals of Decree No. 1811 of 1990 is to make "Western medicine" compatible with and complementary to indigenous "traditional medicine"; in 1995, however, it was noted that the health programmes, means and spaces needed to link allopathic medicine to traditional curative and preventive practices had not been developed and many indigenous medical practitioners die without transmitting their knowledge to the younger generations.

24. Act No. 100 of 1993 and Decree No. 1135 of 1994 giving effect to it establish assistance for indigenous people aged over 50 years which is allocated through the "Revivir" programme on the basis of regional considerations and poverty levels, in accordance with the beneficiaries' social and cultural profile.

25. With regard to land ownership, indigenous peoples consider their territory to be the material foundation of their culture. Close to 80 per cent of indigenous people live on 408 resguardos, representing an area

of approximately 27 million hectares; however, problems have been noted in these territories, such as: presence of tenant farmers, communities which are established on uncultivated land and have no resguardos and communities without land or without sufficient land and land registered with the National Agrarian Fund, but not attributed. It was also found that some indigenous resguardos overlapped with national parks and that mechanisms for harmonizing the rights and activities of indigenous peoples with the parks' objectives should therefore be sought.

26. As regards education, it was found that indigenous forms of socialization and transmission of knowledge, which are still in force in many cases, had not been recognized and sufficiently integrated into national educational systems. The Ministry of Education has been developing an ethnic education programme, to which approximately 80 per cent of indigenous peoples had access in 1995. Although this programme is part of the national educational system, situations were found in which its general approach did not take indigenous peoples' social and cultural particularities into consideration.

27. Educational institutions have not incorporated the communities' sociocultural features or made provision for primary education in each community's mother tongue. As to formal education, according to the 1985 census, the illiteracy rate among the indigenous population was 44 per cent as opposed to 36 per cent for the rural sector in general; primary and secondary level coverage in 1989 was 11.3 per cent and 1.25 per cent, respectively, as opposed to a national average of 84 per cent and 46 per cent.

28. Indigenous people who manage to complete secondary vocational training and wish to go on to higher education face economic difficulties and adjustment problems and, in many cases, are not able to meet the minimum requirements set by the Colombian Institute for the Promotion of Higher Education (ICFES), which leads to problems in entering university.

29. Although progress has been made in formulating alternative proposals for indigenous education, through the adaptation of curricula to the specific conditions of indigenous peoples, coverage has been partial and, in some cases, the indigenous world view is not taken into account.

30. It is also necessary to make the regulations to give effect to Act No. 115 of 1994, the General Education Act, more flexible where education for indigenous peoples is concerned, in accordance with their customs and with their participation.

31. Concerning environmental matters, despite the fact that indigenous peoples establish a relationship with nature that is based on a system of principles governing collective and individual behaviour towards their living space, settlement has introduced into most of the indigenous territories in the forest and savannah Andean systems of production which cause significant environmental deterioration and adversely affect indigenous social, economic, cultural and political systems.

32. Natural resources which are vital to survival in indigenous territories have been adversely affected by activities such as tree felling. Mining and other extractive activities and the construction of roads and port facilities

have caused deforestation, river pollution, soil deterioration and indiscriminate over-exploitation of animal and plant resources. This situation has mainly affected the Waunana and Embera peoples on the Pacific coast, the Curripacos in the Guainía, the Wayúus in Guajira and other groups in the department of Putumayo.

33. Illicit crop-growing is highly distruptive to social, economic, cultural and ecological conditions in the indigenous territories, in addition to already existing factors of conflict such as poverty and insufficient institutional coverage. Illicit crop-growing has created problems of public order and affected the communities' economic, social and cultural lives, especially in Cauca, Caquetá, Sierra Nevada de Santa Marta, Guaviare, Putumayo and Nariño.

34. Beginning in 1994, 364 indigenous resguardos were assigned resources from the national current account (Act No. 60 of 1993). The following factors have made it difficult to implement these resources: the indigenous peoples' and communities' lack of preparation, resulting in poor operational and managerial capacity; the territorial authorities' lack of familiarity with the legal instruments to give effect to their implementation; and confusion and lack of information about the destination of the resources and the institutions' lack of sufficient coordination and training to provide the territorial authorities and indigenous communities with adequate advisory assistance. Full coverage has not been achieved, as nearly 40 resguardos established since 13 September 1993 do not have use of these resources.

35. In addition, the rules governing the administrative organization of the Indigenous Territorial Entities (ETI) and their coordination with the other territorial entities have not yet been defined.

B. The Government's policy for the indigenous peoples

36. The general outline of the Government's policy for the indigenous peoples is found in National Economic and Social Policy Council (CONPES) document No. 2773 of 1995. It reads as follows: "The National Government, through its Programme of Support for and Ethnic Strengthening of Indigenous Peoples, shall further the implementation of the constitutional principle of the ethnic and cultural diversity of the Colombian nation and promote the rights deriving therefrom. The Government's policy for indigenous peoples is defined by the following objectives, which shall serve as guidelines for implementing the different programmes:

(a) To support the indigenous peoples' social, economic, educational and cultural systems of health, monitoring and social regulation by adapting them to and improving their coordination with the national society's systems. The gender perspective as it relates to indigenous communities is aimed at reclaiming the particular values of each people and the basis for women's identity and validation, bearing in mind the social and cultural systems and particular world view of each indigenous people;

(b) To conduct activities aimed at the protection, promotion, dissemination and defence of the individual and collective ethnic rights of indigenous peoples;

(c) To harmonize and coordinate the different levels of Government, public administration sectors and institutions and non-governmental bodies working on indigenous matters, in support of autonomous and sustainable ethnic development;

(d) To consult and involve indigenous peoples and communities and their authorities and representative organizations in the programmes and projects designed on their behalf and to consider the programmes and projects proposed by the indigenous peoples in an effort to reach agreement;

(e) To promote information and communication activities concerning the ethnic and cultural diversity of the Colombian nation and inter-ethnic and intercultural training.

C. Plan of Action for the Indigenous Peoples (CONPES document No. 2773 of 1995)

37. The Government's intention in adopting the above-mentioned document was to support, strengthen and ensure the consolidation and implementation of the rights granted to the indigenous peoples by the Constitution, on the basis of respect for ethnic and cultural diversity through their participation in national life and, especially, the design and implementation of social and economic development projects having an impact on their social, economic, cultural and political systems.

38. Strategies for indigenous peoples involve the establishment of regulations giving effect to their rights; recognition of their particular systems of monitoring and social regulation, including coordination between the indigenous and national judicial systems; adoption of territorial and sectoral support programmes developed in cooperation with the indigenous communities; establishment of Indigenous Territorial Entities (ETI); continuation of the legalization and reclamation of the indigenous territories; knowledge and understanding of indigenous values and customs by Government bodies; and involvement of the communities in Government social and economic development programmes.

39. The Act relating to the National Development and Investment Plan 1995-1998 adopted by Congress, includes an article stipulating that the following resources will be provided for the indigenous peoples from the national investment budget: 2 per cent of the following programmes and subprogrammes: (a) agrarian reform; (b) social welfare programmes, excluding the special programmes on urban employment, low-cost housing, support policy for urban development, tax transfers and budgetary allocations for municipalities and indigenous resguardos; (c) environmental programmes, excluding the urban improvement and population subsectors, demographic policy, with a view to pollution-free production and a national environmental system.

40. To achieve the proposed objectives, the Government will commit funds in the amount of $COL 290,990 million (1994) for the 1995-1998 budget period, of which projected resources of $COL 78,972 million will be transferred to the indigenous resguardos during the same period. The communities will also have access to cofinancing, for which the different cofinancing bodies will study allotment mechanisms.

D. Progress in the implementation of the Plan of Action

41. Several factors have hindered the implementation of Governmental policy for the indigenous communities, the foremost among them being the financial factor. However, the Government is confident that the achievements described below will enable the Committee to appreciate the Government's efforts and its determination in this regard.

1. Support for social, economic, cultural and political systems
Strengthening of ethnic education

42. The following activities have been carried out in accordance with the guidelines contained in Act No. 115 of 1994 and Statutory Decree No. 804 of May 1995, which cover modalities of education for ethnic groups:

(a) Workshops and research. The Ministry of Education has sponsored 85 preparatory workshops and 167 in-service workshops for indigenous teachers. Similarly, 48 research projects have been conducted in linguistics and applied anthropology, in addition to 93 projects conducted under the Institutional Education Programme;

(b) Access to higher education. Up to 1996, the Colombian Institute for Student Loans and Study Abroad (ICETEX) and the Social Solidarity Network of the Office of the President of the Republic, through the Alvaro Ulcué Fund, granted 781 loans subject to cancellation on performance of community service, to which 376 were added in 1997. The University of Amazonía has also sponsored training for 33 indigenous students in a linguistic certification programme. Under agreement No. 022 of 1986 between the Ministry of the Interior and the National University of Colombia, which allots 2 per cent of its vacancies to indigenous peoples, 295 indigenous persons have been admitted, 37 of whom have already graduated, and 28 new students have enrolled in the first half of this year;

(c) Educational infrastructure. The Social Investment Fund (FIS) has financed 103 educational infrastucture and endowment projects and has also granted 76 subsidies for upkeep. The Directorate-General for Indigenous Affairs has assisted in the construction of schools and sanitary facilities.

Health and comprehensive care for the indigenous peoples

43. Health care. The Ministry of Health has adopted special guidelines on health care for the indigenous peoples and has formed a working group for that purpose. In addition, an interdisciplinary and interagency group coordinated by the Directorate-General for Indigenous Affairs has been working on the consideration and adoption of criteria for establishing rules to give effect to the chapter of Act No. 100 of 1993 which covers health for the indigenous peoples.

44. Seventy-five thousand indigenous persons have joined the subsidized health scheme. Similarly, 228 patients have been assisted by the Directorate-General for Indigenous Affairs and the Inpatient Health Network.

45. Training. Forty indigenous persons are currently being trained in traditional medicine. The Ministry of Health, for its part, has financed the establishment of 18 bicultural health centres.

46. The Ministry of Health has sponsored 58 workshops for publicizing the contents of Act No. 100 of 1993, Social Security Act, in respect of indigenous peoples and a special indigenous health system is being prepared in consultation with the indigenous peoples.

47. Protection for children and indigenous families. The Colombian Family Welfare Institute has designed a policy for the care and protection of children. Services have been provided for 168,787 indigenous people to date through the programme on comprehensive care for indigenous children and families.

48. The names of 9,350 indigenous persons have been added to the senior citizen's register. Subsidies have been channelled to 3,205 senior citizens through the Social Solidarity Network's "Revivir" programme.

49. The Directorate-General for Indigenous Affairs of the Ministry of the Interior, in coordination with the Colombian Family Welfare Institute, has helped to reintegrate 30 minors in irregular situations into their communities, pursuant to articles 21 and 90 of the Juvenile Code.

Land and agrarian reform

50. Establishment of reservations. In 1996, on the advice of the Directorate-General for Indigenous Affairs, 28 new resguardos were established, covering an area of 126,000 hectares and 6,124 indigenous peoples from the following communities: Kocama-Tikuna (Amazonas), Embera-Katío (Antioquia, Caquetá and Chocó), Tukano-Desano-Tariano (Guaviare), Páez (Huila, Caquetá), Arhuaco (Cesar), Guayabero (Guaviare, Meta), Pijao (Huila, Tolima), Wayúu (Guajira), Awa (Nariño), Eperara-Siaperara (Nariño), Inga (Putumayo), Witoto (Putumayo), Embera-Chami (Valle).

51. Through the Ministry of the Environment's natural resources programme (PMRN), $200,000 from a World Bank loan have been invested in the demarcation and titling of indigenous resguardos.

52. Land acquisition. From 1994 to 1996, the Government allotted 416,880 hectares of land to establish indigenous resguardos for 36,726 indigenous persons. Pursuant to the María-Piendamó Agreement, the Government transferred 6,700 hectares of land to the Páez people.

Support for production projects

53. Projects. In 1996, the Ministry of Agriculture's Cofinancing Fund for Rural Investment invested $COL 1,165 million for job creation and support for the Comprehensive Peasant and Indigenous Development Plan (PDIC). Likewise, the National Royalties Fund allocated approximately $COL 790 million to the implementation of 22 production projects.

54. Training. The World Food Programme (WFP) has trained 245 indigenous people and provided 8,000 with soft loans for community production projects. Workshops have also been conducted on policy formulation and the reorganization of regional resources for the indigenous peoples.

55. The Ministry of Agriculture's "Capacitar" programme has sponsored 59 training workshops for the design of production projects. Similarly, the Directorate-General for Indigenous Affairs has held 60 workshops on legal policy developments for indigenous authorities and 10 territorial entities.

Other activities

56. Special court system. The Ministry of the Interior and the Ministry of Justice and Law are conducting research aimed at developing regulations for the special indigenous courts established in article 246 of the Constitution. To this end, the first National Seminar on the Special Indigenous Court System was held to define mechanisms for appropriate coordination with the national court system.

57. Protection of ecosystems and natural woodlands. The Directorate-General for Indigenous Affairs published an Indigenous Atlas of the Amazon Basin, as a showcase for the region's wealth in natural resources. The Directorate also established a task force on biodiversity and genetic resources in the indigenous territories. Part of the task force's work will be to promote a process of consultation of the communities with a view to introducing regulations giving effect to Andean Group Decision No. 391 establishing a special system for access to the genetic resources of the indigenous Afro-American and local communities. The Directorate has also taken inventories of plant life and designed plans for the handling and conservation of the fishery resources of the Amazonas, Caquetá, Putumayo and Magdalena rivers and the binational station at Guajira.

58. Institutional development and resources allocated to indigenous resguardos from the national current account. The Directorate-General for Indigenous Affairs, the School of Public Administration and the National Department of Planning have been training the indigenous authorities in public administration and transfer operations.

59. Support for the establishment of indigenous territorial bodies. The Government submitted to Congress for consideration two bills on rules governing the establishment of indigenous territorial entities, but they were not discussed by Congress.

60. Support for binational programmes and programmes in border areas. Binational meetings have been conducted with Brazil, Ecuador, Guatemala, Mexico, Panama and Venezuela to discuss the topics of comprehensive assistance to indigenous peoples in border areas, double nationality, establishment of binational indigenous organizations, international cooperation projects and problems in border areas, such as illegal mining.

2. Cultural and institutional diversification in the framework of indigenous policy

Harmonization, adaptation and institutional coordination

61. The Directorate-General for Indigenous Affairs has laid the groundwork for interagency coordination and project management; and the Organizational Committee for Indigenous Peoples was established and has been meeting and working in such areas as institutional adaptation, the definition of regulations governing the Social Security Acts as it affects indigenous people, rules governing prior consultation of indigenous peoples and the development of an indigenous special court system.

62. Decree No. 1397 of 1996 established the National Commission for Indigenous Territories and the Bureau for Cooperation with Indigenous Peoples and Organizations, which is made up of the Deputy Minister for Rural Peasant Development (Ministry of Agriculture), the Director General and high-level officials of the Colombian Agrarian Reform Institute (INCORA), a representative of the Ministry of the Interior, the head of the Agricultural Development Unit of the National Department of Planning, the Director of the Budget Division of the Ministry of Finance and representatives of the following indigenous non-governmental organizations: National Indigenous Organization of Colombia (ONIC), Organization of Indigenous Peoples of the Amazon Region of Colombia (OPIAC) and Tairona Indigenous Conference (CIT). Representatives of each macroregion of the Regional Boards of the Economic and Social Plan (CORPES) also participate. Indigenous senators and former members of the indigenous constituent assembly have a standing invitation to participate.

63. The Standing Bureau for Cooperation is divided into thematic commissions working in the areas of biodiversity, U'wa people, budget, border areas and participation, consultation and cooperation. It is made up of the Ministers of the Interior, Agriculture, Environment, Finance, Development, Mines and Energy, Health and Education, the Director of the National Department of Planning, the Presidential Advisers on Border Areas and Social Policy, indigenous senators and former members of the indigenous constituent assembly. The International Labour Organization, the Human Rights Commission and the Episcopal Conference of Colombia were designated as monitors.

64. The National Human Rights Commission for Indigenous Peoples was established through Decree No. 1396 of 1996. It is made up of the Minister of the Interior, who chairs it, the Ministers of Defence and Justice, the Attorney-General of the Nation, the Public Prosecutor, the People's Advocate, indigenous senators and former members of the indigenous constituent assembly and representatives of ONIC, OPIAC and CIT. The Decree provides for the monitoring of the Commission's performance by the ILO, the Human Rights Commission and the Episcopal Conference.

65. Regional policy boards with indigenous representation have also been formed (in the departments of Guaviare, Magdalena, Meta and Cauca) and inter-agency and indigenous committees have been established at the departmental level (Cesar, Antioquia, Nariño, Chocó, and Amazonas).

66. The Directorate-General for Indigenous Affairs has worked with indigenous bodies and peoples in disseminating indigenous policy (CONPES document No. 2773 of 1995) through the harmonization and simplification of methodologies and technical assistance.

67. Demographic information. The Territorial Development Unit of the National Department of Planning established a data base on the indigenous territorial and population system and the section on indigenous communities of the 1993 population census is being completed; the data will be compared to and supplemented with the censuses conducted by the indigenous community council representatives and the authorities at the community level. Another important achievement in this area was the creation of a map-linked data base and a documention centre in the offices of the Directorate-General for Indigenous Affairs.

68. Provision of members of indigenous communities with identity papers. The National Civil Register, with support from the Directorate-General for Indigenous Affairs, has begun an identification programme (identification campaigns, civil registers and identity cards) in the indigenous communities in outlying urban areas and difficult-to-reach areas in the departments of Guainía, Guaviare, Caquetá, Putumayo, Amazonas, Vichada, Meta, Chocó and the Pacific Coast.

69. In addition, through coordinated action with the Directorate-General for Indian Affairs, the Recruitment Division of the army has conducted large-scale campaigns aimed at determining the status of members of indigenous communities with regard to military service, leading to exemption from service and exemption from payment of alternative fees in all of the country's departments, and this has covered 7,000 indigenous people to date.

3. Consultation and participation of indigenous peoples in the programmes conducted on their behalf

70. Definition of regulations governing mechanisms for the effective participation of indigenous peoples. Pursuant to ILO Convention No. 169, ratified through Act No. 21 of 1991 and implemented through Act No. 99 of 1993 and other relevant instruments, a document was prepared containing a frame of reference for consultation of the indigenous communities. The Directorate-General for Indigenous Affairs also issued decision No. 23 of 1997, subsequently repealed, with a view to adopting a comprehensive framework for legal matters and administrative consensus.

71. As mentioned earlier, the Organizational Committee for Indigenous Peoples was established to introduce regulations governing the processes of consultation and participation of indigenous peoples in the decisions affecting them. As soon as the Committee has drawn up the relevant proposal, it will be presented to the indigenous peoples for consideration. Other forums for dialogue have been established, such as the above-mentioned National Commission for Indigenous Territories, the Standing Bureau for Cooperation with Indigenous Peoples and Organizations and the National Human Rights Commission for Indigenous Peoples. In addition, pursuant to Decree No. 1088 of 1993, the Directorate-General for Indigenous Affairs has provided 68 legal aid units for associations of traditional authorities.

72. Various governmental bodies have concluded agreements with the Páez, Guambiano and Yanacona peoples (La María-Piendamó Agreement, Guambiano welfare plan) and agreements in Macizo Colombiano, Baja Bota Caucana, Caquetá and Putumayo, at the communities' request. The agreements have covered topics relating to territory, natural resources, infrastructure, production, conflict resolution, health, education and credit. The agreements have not been fully implemented owing to difficulties of various kinds, but the Government will continue working towards that end.

73. Training. In order to secure the effective participation of indigenous communities on a more efficient basis, the Directorate-General for Indigenous Affairs, with support from the World Bank, is conducting a programme of training for strengthening and intercultural management with 10 indigenous peoples, which has already concluded its first phase; 10 training workshops on the same theme have been conducted with indigenous peoples and institutions.

74. Cooperation. Political talks are also being held between the U'wa people and the Government with a view to resolving the differences created by the granting of an environmental licence for oil exploration in its territories; the purpose of the talks is to guarantee respect for the territory and ethnic and cultural integrity of these communities; projects intended for the same purpose are also being conducted with the Páez and Guambiano peoples.

4. Protection, promotion and defence of the indigenous communities' human rights

75. As mentioned above, Decree No. 1396 of 1996 established the National Human Rights Commission for Indigenous Peoples, whose purpose is to design and and ensure the implementation of measures for guaranteeing respect for the lives and integrity of the indigenous peoples in all parts of the national territory. The Commission is responsible for the periodic evaluation of the situation of the indigenous peoples, especially in regions where social unrest is the most acute. Three of the Commission's subcommissions are working on the following themes: (a) assistance to indigenous victims of violence; (b) monitoring and promotion of criminal and disciplinary investigations into violations of the human rights of members of the indigenous communities; and (c) conflict resolution.

76. With regard to assistance to indigenous victims of violence, the Government conducts programmes in the framework of the Social Solidarity Network, the Ministry of Health, the Ministry of the Interior and the Ministry of Development (Inurbe-Artesanías). These programmes have been designed for the growing population group in the country affected by these problems and aid to indigenous peoples is being channelled through them. In addition, the Office of the High Commissioner for Peace and the Office of the Presidential Adviser for Human Rights provide emergency humanitarian aid for the victims of violence, including members of indigenous peoples, through agreements with the Colombian Red Cross.

77. The Office of the Presidential Adviser for Human Rights receives complaints of human rights violations lodged by indigenous communities and encourages the competent bodies to conduct the relevant investigations.

III. THE AFRO-COLOMBIAN POPULATION OR BLACK COMMUNITIES OF COLOMBIA

A. Location and socio-geographical characteristics

78. The Black communities of Colombia may be located geographically on the basis of the way the country is divided up politically and administratively, thereby allowing a socio-geographical approach which takes account of land use dynamics and strategies for adaptation to the natural environment.

79. Locating the Black communities according to sociocultural areas makes it possible to understand their cultural diversity and the various ways in which they use their land and establish economic, political and symbological relations in accordance with specific geographical and historical conditions.

80. Depending on their sociocultural characteristics, the Black communities can be classified as "ethnico-territorial", "urban", "inter-Andean", "Caribbean", "settler" and "raizales from the islands of San Andrés and Providencia". These characteristics may be summarized as follows:

(a) The ethnico-territorial Black communities include all the Afro-Colombians settled in traditional areas with certain ancestral cultural practices peculiar to a specific territory. These are rural communities located in humid tropical forests, river valleys, marshes, mangrove swamps and coastal strips. Examples are the communities established in Colombia's Pacific area;

(b) The Caribbean Black communities account for a high percentage of the population which is located on the Atlantic seaboard and whose historical ethnic roots in this coastal region show the close links of this Afro-Colombian group with the culture of the Caribbean region of the hemisphere;

(c) The Urban Black communities are a group of Afro-Colombians living in urban and metropolitan concentrations who maintain close kinship ties and cultural links with the ethnico-territorial populations and develop urban cultures, but with their own characteristics, symbologies and languages specific to their ancestral backgrounds;

(d) The Black communities of the inter-Andean valleys are characterized by being settled in areas of their own in the valleys, foothills and hills of the Colombian Andes, such as the concentrations in the Cauca and Magdalena valley regions and those established in small Andean towns;

(e) The term "Black settler communities" means groups of Afro-Colombians who, for various reasons, have migrated and populated new territories. These include the Black peasant settlements of the Bota Caucana, the eastern plains, the Orinoco region and Amazonia, to cite a few examples.

(f) The Black "raizal" communities are the ethno-cultural group formed by the inhabitants of the San Andrés and Providencia archipelego, who maintain a marked Caribbean identity, with sociocultural and linguistic traits clearly differentiating them from the rest of the Afro-Colombian population.

B. Qualitative and quantitative information

81. The status of the Black communities of Colombia is only just beginning to be a subject of systematic study by the Colombian State. The preliminary data assign them to the group of Colombians with the highest index of unmet basic needs. The data also show that the population of these communities is much larger and geographically more representative than previously thought.

82. In response to these findings, the National Economic and Social Policy Council (CONPES) itself, headed by the President of the Republic, turned its attention to this situation, adopting for a start a "programme in support of the ethnic recognition of the Afro-Colombian population". The basis of this programme is a diagnosis recognizing the economic and social situation in which most of these communities live and which is attributable to the historical disadvantage resulting from the enslavement to which they were subjected in the past. In the document in question, the Government maps out some policies and adopts a plan of action which is not sufficient to rectify this situation, but is regarded as laying some very important foundations for tackling it.

83. According to the findings of preliminary studies by the National Planning Department set out in CONPES document No. 2909 of February 1997, it can be affirmed that the Afro-Colombian population is present in all the country's geographical areas, but mainly in the inter-Andean valleys of the Patía, the Magdalena and the Cauca, in the lowlands of the "Pacific Platform", in the Urabá region, on the Atlantic coast, in the San Andrés, Providencia and Santa Catalina archipelago and in the country's various gold-bearing zones. There also exist major population nuclei in the country's main urban centres, especially Cali, Barranquilla, Cartagena, Medelín and Bogotá.

84. The Black communities settled in towns make up the majority of Colombia's Black population. In nearly all the country's major urban centres Afro-Colombians constitute an important group who contribute to enhancing Colombia's ethnic and cultural diversity, through some typically urban public gatherings forming part of a highly diverse and heterogenous sociocultural scene that depends in part on the specificity of the type of citizen inhabiting a particular town.

85. Within the national context, it is observable that the population nuclei to which the Black communities belong live in conditions of extreme poverty or in slum areas, with indices of unmet basic needs above the national average. The chances of improving in the quality of life of the Black population depend to a large extent on the enhancement of their organizing capacity, on the development of sustainable alternative modes of production and on the policies devised by the national Government to achieve this objective.

Health conditions

86. The health status of this population is precarious; for example, on the Pacific Coast, there are infant mortality rates of 117 per 1,000 live births, which is four times the national average. The morbidity pattern is characterized by diseases typical of poor living conditions, such as

gastroenteritis and acute respiratory infections. In the ancestral territories where these communities live, there is inadequate health care provision and it is estimated that about 60 per cent of this population has no access to it.

87. The sanitary conditions in which the Black communities of San Andrés, the Atlantic coast, the Pacific coast and various urban areas live are among the least satisfactory in the entire country. For the Pacific region, for example, the present coverage of piped water services in the chief towns of municipalities averages 48 per cent and that of sewerage services, some 10 per cent in urban areas, i.e. half the national averages. The coverage for piped water in rural areas stands at 13 per cent and for sewerage, at about 2 per cent (not counting the municipality of Buenaventura). The coverage of garbage collection systems amounts to 10 per cent and facilities for the disposal of solid wastes are lacking.

88. The institutional framework of the sanitation services is unsatisfactory. In the chief towns of the municipalities, institutional structures are rudimentary and, in rural districts and areas, there is little assistance available from the national or departmental level. The same applies in urban areas, where a high percentage of neighbourhoods with Black populations have no basic service infrastructure.

Educational situation

89. With regard to the state of education for these population groups, the coverage of the schooling system is low. For the year 1993 in the Pacific coastal region, for example, primary school attendance was estimated at 77 per cent and secondary at only 36 per cent, whereas the averages at the national level for that year stood at 86 and 46 per cent, respectively. Similarly, the infrastructure and equipment of educational facilities is markedly inadequate and the quality of the teaching low owing to the lack of relevance for pupils, as there is no recognition of their ethnic specificity, and to low levels of achievement and efficiency. In general, curriculum content is not adapted to the Afro-Colombian communities' sociocultural characteristics, but dominated by features specific to the Andean/mixed race and White culture.

90. In the regions or departments where Black communities are located, culture has not received adequate attention from the administration, so it is underutilized as a factor of social change. Sport, too, has been given less than adequate encouragement and support.

Housing conditions

91. With regard to the Afro-Colombian communities' dwellings, there are, in addition to low coverage by public housing services difficulties with the legalization of property and building rights, together with a high percentage of overcrowding and low housing quality. Moreover, there are settlements in areas subject to periodic flooding or otherwise at risk, both in the countryside and in towns. The supply of public sector housing is also inadequate.

Use of natural resources

92. The main problems with the use of natural resources and the environmental situation are in the Pacific coastal region, the department of Magdalena, the city of Cartagena, the Urabá region and the San Andrés and Providencia archipelago. The Chocó biogeographical area has one of the world's highest indices of biodiversity and endemism; many of the species concerned are still unknown to science and it is estimated that 22 per cent of the 40,000 higher plant species that it is calculated may exist in Colombia belong to the Pacific region. In recent years, the area has been supplying one third of all the raw timber consumed in the entire country and 62 per cent of that obtained from natural forests. According to calculations, 154,000 hectares of trees are felled in the region each year.

93. The use of inappropriate technologies for the exploitation of natural resources is having a heavy environmental impact on the region, causing extensive damage to soil, water and the environment in general. In coastal villages, the discharge of waste water, excreta and garbage into the sea is adversely affecting the fauna and flora associated with these ecosystems, as well as activities specific to the tourist subsector.

94. Recent migratory movements of settlers and entrepreneurs to the Pacific area are introducing non-sustainable modes of production and affecting social organization, the Afro-Colombians' own modes of production and the cultural development of the territory.

Regional development and collective land ownership

95. With regard to regional development and collective land ownership, the Pacific coastal area is where the problems faced by the Black communities call for priority attention. As a result of the isolation of this region, the social marginalization of the communities and the lack of any definition of the concept of territory by the State, the problem of the legalization and recognition of territory on the Pacific Platform and in other areas with similar conditions had not been solved. Only with the adoption of Act No. 70 of 1993 was a start made on establishing policies, mechanisms and instruments designed to remedy that situation. There were also problems with regard to the legalization of urban property and land reclamation in other regions with Afro-Colombian settlements.

Economic aspects

96. As to economic aspects, a relatively large proportion of the Afro-Colombian communities are settled in rural areas, where they engage mainly in primary activities such as mining, fishing, agriculture and extraction of timber. These economic activities are characterized by their low productivity and the use of traditional technologies with little environmental impact.

97. Approximately 12 per cent of the population is employed in the secondary sector (industry) and an equal percentage in the tertiary (services), especially in the port towns. The per capita income of these communities is estimated at $500 per year, less than one third the national average.

98. In urban areas, Afro-Colombian manpower tends to be employed mainly in the informal sector of the economy, e.g. itinerant vending, building and domestic service, characteristically low-paid occupations with no social security or guaranteed benefits.

Energy

99. Energy is in short supply in the Pacific and Atlantic coastal areas, San Andrés and Providencia and the Orinoco region. In the main urban centres of these regions, a regular energy supply service, though of poor quality, is available in marginalized districts. In the smaller population centres, the power supply, if any, is limited to a few hours per day in the chief town of the municipality.

Transport

100. In the Pacific coastal area, for example, the principal means of transport is by river in view of the availability of water resources and the inadequacy of the local road network. The excessive and inappropriate regulatory control of coastal navigation restricts the supply of transport for passengers and fuel. There is an inadequate network of airports for communication between the coastal localities and the rest of the country. In the inter-Andean valleys, roads have to be improved to make travel for the inhabitants and the transport of farm produce easier.

Telecommunications

101. The telecommunications system is unreliable, especially as far as rural telephone service is concerned, and, in urban centres, there are not enough lines.

102. Afro-Colombian women face poverty, high unemployment rates and low-grade work, insufficient health protection and a high incidence of domestic violence, all of which combined have led to immigration from their native settlements. The same applies to young Afro-Colombians, who do not enjoy optimum conditions of security or access to higher and vocational education, to good jobs and to development in keeping with their world view and their sociocultural situation. A related cause of concern is the large number of minors exposed to adverse conditions in large towns.

Institutional contest

103. In this regard, the territorial divisions where the Afro-Colombian population settles are characterized by their low capacity for administration, planning and management. In most localities, there are no systems for budgeting, information, monitoring and follow up. The precarious state of their finances is reflected in dependence on transfers from the national budget, the lack of any income of their own and chronic budget deficits. This in turn becomes a structural obstacle to efficient performance by the territorial divisions of their assigned functions under the decentralization arrangements.

104. With regard to human rights, there is not enough information available in the country about the situation of the Black communities. Nevertheless,

the problems faced by these communities are known to the institutions and to the public, not only through complaints of racial discrimination, prejudice and segregation, but also through cases of forced displacement and violations of physical and cultural integrity.

105. Under Act No. 70 of 1993, some areas and authorities have been established to promote community participation, such as the Black Community Affairs Department of the Ministry of the Interior, the Study Commission for the Formulation of the Development Plan for the Black Communities and the High Level Departmental Consultative Bodies. Regulations have also been adopted on other important aspects such as recognition of the right to collective ownership, participation in the National Planning Council, participation in elections to the House of Representatives (in abeyance pending the adoption of new regulations, as the legal provisions to give effect to this right were recently declared unconstitutional) and the establishment of an Education Committee.

Social statistics

Estimates, by municipalities with predominantly Afro-Colombian populations

Department	Municipality	1993 population		Unmet basic needs	%	Extreme poverty	%	Socio-cultural area
		Census figure	Adjusted figure					
Antioquia	Cáceres	17 368	21 703	15 540	71.6	9 571	44.1	Mining zone, Antioquia
Antioquia	Caucasia	47 340	54 097	26 778	49.5	12 172	22.5	Mining zone, Antioquia
Antioquia	El Bagre	33 590	46 049	29 379	63.8	17 637	38.3	Mining zone, Antioquia
Antioquia	Remedios	15 245	18 658	9 945	53.3	5 094	27.3	Mining zone, Antioquia
Antioquia	Segovia	27 138	32 179	16 926	52.6	8 495	26.4	Mining zone, Antioquia
Antioquia	Zaragoza	21 147	25 496	17 567	68.9	10 428	40.9	Mining zone, Antioquia
Valle	Calima	13 713	15 260	4 563	29.9	1 282	8.4	River Cauca valley
Valle	Candelaria	52 783	61 247	17 394	28.4	4 042	6.6	River Cauca valley
Valle	Cartago	103 607	121 380	27 189	22.4	6 433	5.3	River Cauca valley
Valle	Dagua	30 782	36 176	12 770	35.3	3 979	11.0	River Cauca valley
Valle	El Cerrito	46 440	54 01[illegible]	15 124	28.0	3 349	6.2	River Cauca valley

Department	Municipality	1993 population		Unmet basic needs	%	Extreme poverty	%	Socio-cultural area
		Census figure	Adjusted figure					
Valle	Florida	46 264	52 632	15 684	29.8	4 263	8.1	River Cauca valley
Valle	Guacarí	25 814	29 973	8 363	27.9	2 098	7.0	River Cauca valley
Valle	Jamundí	48 145	57 205	15 846	27.7	3 890	6.8	River Cauca valley
Valle	Palmira	232 608	249 338	53 857	21.6	9 974	4.0	River Cauca valley
Valle	Pradera	38 499	44 401	15 940	35.9	5 239	11.8	River Cauca valley
Valle	Tuluá	144 223	164 780	39 877	24.2	8 733	5.3	River Cauca valley
Cauca	Buenos Aires	13 881	16 126	9 514	59.0	4 096	25.4	River Cauca valley
Cauca	Caloto	24 269	26 561	9 535	35.9	2 390	9.0	River Cauca valley
Cauca	Corinto	15 506	18 467	9 418	51.0	4 081	22.1	River Cauca valley
Cauca	Miranda	17 543	20 171	6 838	33.9	1 876	9.3	River Cauca valley
Cauca	Padilla	8 686	9 995	4 598	46.0	1 719	17.2	River Cauca valley
Cauca	Puerto Tejada	38 113	44 427	14 084	31.7	4 043	9.1	River Cauca valley
Cauca	Santander Quilichao	64 068	69 733	23 081	33.1	7 531	10.8	River Cauca valley
Cauca	Suárez	20 110	23 434	16 451	70.2	9 725	41.5	River Cauca valley
Cauca	Argelia	17 772	21 305	17 789	83.5	13 102	61.5	Patía valley
Cauca	Balboa	17 677	20 838	12 857	61.7	6 627	31.8	Patía valley
Cauca	Bolívar	50 458	62 158	41 522	66.8	22 750	36.6	Patía valley
Cauca	La Sierra	8 175	9 617	5 953	61.9	3 049	31.7	Patía valley
Cauca	La Vega	15 003	17 648	12 265	69.5	5 983	33.9	Patía valley
Cauca	Mercaderes	15 400	17 564	10 960	62.4	5 673	32.3	Patía valley
Cauca	Patía (El Bordo)	25 328	29 246	16 670	57.0	8 218	28.1	Patía valley
Antioquia	Apartadó	66 951	77 280	39 490	51.1	21 098	27.3	Urabá
Antioquia	Arboletes	20 073	23 674	18 821	79.5	10 961	46.3	Urabá

Department	Municipality	1993 population		Unmet basic needs	%	Extreme poverty	%	Socio-cultural area
		Census figure	Adjusted figure					
Antioquia	Carepa	26 951	31 469	18 221	57.9	9 535	30.3	Urabá
Antioquia	Chigorodó	37 242	42 580	24 100	56.6	12 944	30.4	Urabá
Antioquia	Mutatá	9 165	11 015	7 182	65.2	3 910	35.5	Urabá
Antioquia	Necoclí	26 706	32 473	26 757	82.4	18 769	57.8	Urabá
Antioquia	San Juan de Urabá	15 989	18 891	16 870	89.3	12 827	67.9	Urabá
Antioquia	San Pedro de Urabá	23 206	27 362	23 094	84.4	14 776	54.0	Uraba
Antioquia	Turbo	77 973	99 076	69 353	70.0	40 720	41.1	Urabá
San Andrés y Providencia	San Andrés	46 033	56 092	19 071	34.0	3 702	6.6	San Andrés y Providencia
San Andrés y Providencia	Providencia	3 840	4 679	1 151	24.6	154	3.3	San Andrés y Providencia
Putumayo	Puerto Guzman	1 898	2 531	1 356	53.6	701	27.7	Orinquia region
Caquetá	Cartagena Chairá	21 556	26 588	20 207	76.0	11 247	42.3	Orinoco region
Caquetá	El Doncello	17 483	20 706	8 427	40.7	3 147	15.2	Orinoco region
Caquetá	San Vicente del Caguán	30 249	37 539	30 481	81.2	18 281	48.7	Orinoco region
Santander	Barrancaber-meja	156 468	182 685	53 892	29.5	20 826	11.4	Magdalena Medio
Santander	Cimitarra	20 818	25 160	14 744	58.6	7 372	29.3	Magdalena Medio
Cundinamarca	Puerto Salgar	10 961	12 419	4 769	38.4	1 850	14.9	Magdalena Medio
Cesar	Gamarra	10 303	11 012	6 552	59.5	3 733	33.9	Magdalena Medio
Caldas	La Dorada	63 355	73 057	22 502	30.8	7 087	9.7	Magdalena Medio
Boyaca	Puerto Boyaca	28 475	33 084	13 002	39.3	5 095	15.4	Magdalena Medio
Bolívar	San Pablo	20 965	27 833	21 459	77.1	15 336	55.1	Magdalena Medio
Bolívar	Simití	19 063	23 613	19 008	80.5	13 200	55.9	Magdalena Medio

Department	Municipality	1993 population		Unmet basic needs	%	Extreme poverty	%	Socio-cultural area
		Census figure	Adjusted figure					
Antioquia	Puerto Berrío	28 067	34 782	14 747	42.4	5 913	17.0	Magdalena Medio
Antioquia	Puerto Nare (Magdalena)	13 021	13 892	6 877	49.5	3 084	22.2	Magdalena Medio
Antioquia	Puerto Triunfo	9 689	11 262	5 203	46.2	2 309	20.5	Magdalena Medio
Antioquia	Yondó	8 771	10 807	7 630	70.6	4 690	43.4	Magdalena Medio
Valle	Buenaventura	225 188	245 923	88 040	35.8	28 035	11.4	Pacific Seaboard
Nariño	Barbacoas	21 519	25 500	22 491	88.2	12 903	50.6	Pacific Seaboard
Nariño	El Charco	15 444	17 644	13 498	76.5	6 599	37.4	Pacific Seaboard
Nariño	La Tola	4 974	5 602	3 966	70.8	1 989	35.5	Pacific Seaboard
Nariño	Magui	8 824	10 406	10 053	96.6	6 712	64.5	Pacific Seaboard
Nariño	Mosquera	[illegible]	9 354	7 596	81.2	3 620	38.7	Pacific Seaboard
Nariño	Olaya Herrera	21 043	23 635	19 594	82.9	10 565	44.7	Pacific Seaboard
Nariño	Francisco Pizarro	7 075	8 157	6 175	75.7	2 994	36.7	Pacific Seaboard
Nariño	Roberto Payán	8 650	10 157	9 121	89.8	6 226	61.3	Pacific Seaboard
Nariño	Santa Barbara	15 296	17 159	13 556	79.0	6 469	37.7	Pacific Seaboard
Nariño	Tumaco	111 056	125 517	70 540	56.2	30 250	24.1	Pacific Seaboard
Cauca	Guapi	21 956	25 904	17 614	68.0	7 590	29.3	Pacific Seaboard
Cauca	López	16 801	18 848	11 931	63.3	5 730	30.4	Pacific Seaboard
Cauca	Timbiquí	21 436	25 420	19 421	76.4	9 405	37.0	Pacific Seaboard
Risaralda	Pueblo Rico	9 455	11 629	5 384	46.3	2 268	19.5	Coffee-growing belt

Department	Municipality	1993 population		Unmet basic needs	%	Extreme poverty	%	Socio-cultural area
		Census figure	Adjusted figure					
Caldas	Marmato	6 979	8 272	3 193	38.6	1 059	12.8	Coffee-growing belt
Caldas	Riosucio	17 480	19 284	3 973	20.6	810	4.2	Coffee-growing belt
Chocó	Quibdó	99 411	119 261	96 005	80.5	41 861	35.1	Chocó
Chocó	Acandí	9 903	11 852	8 083	68.2	5 227	44.1	Chocó
Chocó	Alto Baudó	11 269	14 166	13 981	98.7	9 378	66.2	Chocó
Chocó	Bagadó	11 384	12 820	7 871	61.4	2 987	23.3	Chocó
Chocó	Bahía Solano	7 102	8 135	3 157	38.8	1 025	12.6	Chocó
Chocó	Bajo Baudó	17 821	20 701	16 333	78.9	8 840	42.7	Chocó
Chocó	Litoral de San Juan (Docordó)	4 039	4 923	4 052	82.3	2 319	47.1	Chocó
Chocó	Bojaya	6 907	8 258	6 408	77.6	3 245	39.3	Chocó
Chocó	Condoto	15 665	19 577	17 286	88.3	7 459	38.1	Chocó
Chocó	El Carmen	5 962	6 981	2 771	39.7	907	13.0	Chocó
Chocó	Itsmina	29 284	34 911	27 859	79.8	12 149	34.8	Chocó
Chocó	Juradó	2 926	3 420	1 820	53.2	708	20.7	Chocó
Chocó	Lloró	7 902	9 583	8 817	92.0	4 686	48.9	Chocó
Chocó	Nóvita	8 098	9 357	5 174	55.3	1 609	17.2	Chocó
Chocó	Nuquí	4 737	5 394	3 021	56.0	1 203	22.3	Chocó
Chocó	Riosucio	26 770	33 141	31 318	94.5	21 144	63.8	Chocó
Chocó	San José del Palmar	5 802	6 894	4 839	70.2	2 599	37.7	Chocó
Chocó	Sipí	1 991	2 581	2 475	95.9	1 486	57.6	Chocó
Chocó	Tadó	19 495	23 978	19 998	83.4	8 440	35.2	Chocó
Chocó	Unguía	11 111	13 429	9 870	73.5	6 849	51.0	Chocó
Sucre	San Onofre	38 931	47 801	37 175	78.9	26 338	55.1	Atlantic Coast
Sucre	Tolú	28 388	33 500	19 195	57.3	10 452	31.2	Atlantic Coast
Sucre	Tolú Viejo	18 566	21 098	14 642	69.4	7 342	34.8	Atlantic Coast
Magdalena	Aracataca	39 278	64 969	39 566	60.9	21 050	32.4	Atlantic Coast
Magdalena	Ciénaga	129 356	156 619	82 225	52.5	41 661	26.6	Atlantic Coast
Magdalena	Tenerife	18 731	23 592	19 346	82.0	12 079	51.2	Atlantic Coast
Guajira	Fonseca	27 654	31 719	15 701	49.5	7 042	22.2	Atlantic Coast

Department	Municipality	1993 population		Unmet basic needs	%	Extreme poverty	%	Socio-cultural area
		Census figure	Adjusted figure					
Guajira	Maicao	89 805	101 154	57 253	56.6	27 008	26.7	Atlantic Coast
Guajira	Villanueva	19 560	19 624	9 733	49.6	4 651	23.7	Atlantic Coast
Córdoba	Ayapel	46 320	56 878	42 431	74.6	26 846	47.2	Atlantic Coast
Córdoba	Cereté	65 888	75 600	41 807	55.3	22 453	29.7	Atlantic Coast
Córdoba	Chimá	11 129	12 395	8 640	69.7	4 673	37.7	Atlantic Coast
Córdoba	Ciénaga de Oro	37 260	44 299	27 554	62.2	14 043	31.7	Atlantic Coast
Córdoba	Lorica	100 543	120 961	85 398	70.6	49 594	41.0	Atlantic Coast
Córdoba	Montelíbano	43 881	52 292	32 055	61.3	17 361	33.2	Atlantic Coast
Córdoba	Moñitos	17 686	20 623	16 931	82.1	9 878	47.9	Atlantic Coast
Córdoba	Puerto Escondido	10 887	12 422	10 745	86.5	6 062	48.8	Atlantic Coast
Córdoba	San Antero	17 669	18 682	15 562	83.3	10 555	56.5	Atlantic Coast
Córdoba	San Bernardo del Viento	24 541	27 844	22 554	81.0	13 783	49.5	Atlantic Coast
Cesar	Chimichagua	29 149	36 672	26 698	72.8	16 649	45.4	Atlantic Coast
Cesar	Chiriguaná	23 499	27 433	18 764	68.4	11 412	41.6	Atlantic Coast
Cesar	El Paso	17 973	21 446	16 234	75.7	9 801	45.7	Atlantic Coast
Cesar	La Gloria	15 437	17 227	11 421	66.3	6 322	36.7	Atlantic Coast
Cesar	Pailitas	13 170	14 626	9 142	62.5	5 383	36.8	Atlantic Coast
Cesar	Tamalameque	13 124	15 365	10 679	69.5	6 377	41.5	Atlantic Coast
Bolívar	Arjona	41 384	50 574	30 901	61.1	14 464	28.6	Atlantic Coast
Bolívar	Calamar	20 588	25 466	16 095	63.2	8 327	32.7	Atlantic Coast
Bolívar	Mahates	18 412	22 538	15 078	66.9	8 181	36.3	Atlantic Coast
Bolívar	Maria la Baja	36 444	46 434	32 736	70.5	18 713	40.3	Atlantic Coast
Bolívar	San Martín de Loba	29 001	37 348	30 177	80.8	22 110	59.2	Atlantic Coast
Bolívar	Santa Catalina	18 645	22 954	16 068	70.0	7 988	34.8	Atlantic Coast
Bolívar	Turbaco	37 368	47 359	20 506	43.3	8 619	18.2	Atlantic Coast

Department	Municipality	1993 population		Unmet basic needs	%	Extreme poverty	%	Socio-cultural area
		Census figure	Adjusted figure					
Atlántico	Luruaco	18 020	22 110	11 564	52.3	5 351	24.2	Atlantic Coast
Atlántico	Piojo	6 360	6 889	3 038	44.1	1 240	18.0	Atlantic Coast
Antioquia	Murindó	1 597	2 029	2 027	99.9	1 185	58.4	Atrato Medio
Antioquia	Vigía del Fuerte	6 721	8 754	8 255	94.3	4 430	50.6	Atrato Medio
Total - nation		32 132 683		11 492 474		4 781 283		Nationwide
Total - Black communities		4 131 390	4 846 327	2 574 418		1 269 695		Black communities

Source: National Planning Department.

Note: In the large capital cities, there is a high percentage of Afro-Colombians among the population.

C. The Government's policies on behalf of the Afro-Colombian population

106. Under the programme in support of ethnic recognition for the Black communities, approved by the National Economic and Social Policy Council (CONPES), the Government has decided to speed up the implementation of the constitutional provision on the ethnic and cultural diversity of the Colombian nation and to give effect to the rights referred to therein.

107. The policy of the State on behalf of the Afro-Colombian population is embodied in the following objectives:

(a) To adapt and coordinate governmental echelons, sectors and institutions of the public administration and non-governmental organizations involved with the Black communities, with the aim of furthering their ethnic development;

(b) To promote a process of social, economic and cultural development for the Black communities in keeping with their world view through participation by those communities and their representative organizations in any plans, programmes and projects of concern to them;

(c) To encourage and strengthen Black community organizations in their institutional development;

(d) To push forward with activities for protecting, promoting, publicizing and defending the ethnic, individual and collective rights of the Black communities.

108. The following strategies are the frame of reference for the Government's policy with regard to the Black communities:

1. Support for a process of socio-economic development in keeping with their world view;

2. The right to be different;

3. Recognition of the right to territory and to natural resources;

4. Strengthening of organizations and institutions;

5. Equitable participation in all the country's goal-setting and steering bodies.

109. During the recent first visit to several countries of the African continent by the President of Colombia in May 1997, the ties linking millions of Afro-Colombians to the inhabitants of that region were highlighted and those communities were invited to strengthen their bonds of cultural identity.

D. Progress in the implementation of the Government's policy on behalf of the Afro-Colombian population

Collective land ownership

110. As was to be expected, the process of the adjudication of titles to ownership of the ancestral territories occupied by the Black communities has not been easy. Following the adoption of the 1991 Constitution, a process aimed at giving effect to this right for the communities was set in motion; first, a special committee composed of representatives of the Government and the Black communities and set up to draft regulations for the implementation of transitional article 55, in conformity with its provisions worked for a year, with the assistance of departmental advisory committees, on the task of studying and preparing a draft law to pave the way for award of land titles.

111. After a quick passage through the Congress of the Republic, the bill was approved and ratified by the executive on 27 August 1993; it thus became Act No. 70 of 1993.

112. For the purpose of the implementation of the Act and in accordance with its provisions, a process of mutual consultation was initiated between the Black communities and the national Government through the High-Level Advisory Committee, which deals with article 45 of the Act. The outcome of these consultations was the publication of Decree No. 1745 of 12 October 1995, establishing mechanisms and procedures for collective award to the Black communities of titles to ownership of the territories.

113. To date, the Colombian Agrarian Reform Institute (INCORA) has issued six land titles to Black communities located in the municipality of Riosucio in the department of Chocó and occupying an area of 60,000 hectares.

Territories adjudged collectively to the Black communities

Area (hectares)	Department	Municipality	Number		Decision	
			Families	Persons	No.	Date
8 773 76520	Chocó	Alto Baudo	83	529	0156	9 Feb. 98
29 026 1319	Chocó	Quibdó	330	2 467	0160	9 Feb. 98
12 851 6400	Chocó	Quibdó	206	1 055	0157	9 Feb. 98
18 026 0000	Chocó	Riosucio	58	368	285	13 Dec. 96
8 231 4532	Chocó	Riosucio	30	139	286	13 Dec. 96
19 153 8400	Chocó	Riosucio	29	102	0159	9 Feb. 98
3 709 0000	Chocó	Riosucio	27	136	290	13 Dec. 96
12 671 6960	Chocó	Riosucio	41	232	289	13 Dec. 96
9 494 1675	Chocó	Riosucio	45	259	287	13 Dec. 96
8 734 8300	Chocó	Riosucio	16	80	288	13 Dec. 96
695 254 1244	Chocó-Antioquia	Quibdó, Boyacá, Atrato, Vigia del Fuerte, Murindo, Urrao, Santa Bárbara	7 904	39 360	4566	29 Dec. 97
16 063 000	Nariño	Santa Bárbara	245	1 352	0158	9 Feb. 98
60.000	Cauca	Guapi	138	801	1081	29 Apr. 98
60 000	Cauca	Guapi	438	2 074	1082	29 Apr. 98
130 000	Cauca	Guapi	437	2 026	1083	29 Apr. 98
1 500	Cauca	Buenaventura	52	221	1084	29 Apr. 98
7 000	Cauca	Buenaventura	60	345	1085	29 Apr. 98
1 200	Cauca	Buenaventura	32	175	1086	29 Apr. 98
842 015.6150			10 171	51 721		

Natural resources

114. On this subject, CONPES ruled that:

"The management, use and monitoring of natural resources shall be determined by the environmental authorities, with due regard to the particular relationship which the Afro-Colombian population has historically maintained with its environment and thanks to which the biogeographical zone of Chocó, home to this culture, has one of the world's highest indices of biodiversity and endemism. Through the Ministry of the Environment, support will be provided in the shaping of

the environmental vision of the Afro-Colombian population to bring it into line with the country's environmental policy.

The national Government, acting through the various authorities and programmes and environmental projects, will support the organizing effort of the Afro-Colombian population in respect of activities of that description and will draft regulations to give effect to chapters IV and VII of Act No. 70 of 1993, with suitable participation by the Afro-Colombians through their legally authorized organizations and agencies."

115. Similarly, the national Government, aware that "ethnic diversity is closely related to cultural diversity", is progressively involving the Black communities in participatory bodies where the planning and execution of environmental management are decided, such as the National Environmental Council and the Regional Autonomous Corporations, as will be seen from the following table:

Participatory bodies and consultation with the Black communities on environmental management

Body	No.	Selection process	Function
National Environmental Council	1	Shortlist submitted by representatives of the Black communities in the High-Level Advisory Committee	Formulation of environmental policy
Board of Directors, Autonomous Regional Corporations:		Departmental consultative assemblies	Formulation of regional environmental policy
Chocó	1		
Valle	1		
Cauca	1		
Nariño	1		
Urabá	1		
Risaralda	1		
San Andrés	1		
Pacific Research Institute	1	General assembly of organizations of Black communities of the Pacific area	Research on the conservation of biodiversity
Bio-Pacific Project - Expanded Team	3	Assembly of organizations	Back-up to the agency for the planning and management of the project
Natural Resources Management Programme - Regional Committees	1	Assembly of organizations	

116. The Bio-Pacific Project (PBP). For the furtherance of environmental management, the national Government has had recourse to international cooperation, resulting in the launching of important projects involving the participation of the Black communities; a case in point is the Bio-Pacific

Project for the conservation of biodiversity, which is an initiative of the Colombian Government for implementation in two phases. The first phase (March 1993-September 1997) was financed by the Global Environment Facility with a donation of $9 million, one third of which was provided by the Swiss Government.

117. According to the project document, the overall objective of the first phase was to provide the Chocó biogeographical region with the necessary input to consolidate a new development strategy based on the application of scientific knowledge and the identification of options for the management of biodiversity such as would ensure its protection and sustainable use, as determined by consultation with the communities.

118. The basic principles guiding the PBP for the achievement of the overall project objective include: (a) the duty of the State to guarantee and protect the patrimonial and intellectual rights to biodiversity of the peoples making up the nation in general and the ethnic groups of the Pacific area in particular; and (b) direct participation by the Pacific ethnic groups in such policies, programmes and draft decisions adopted by the State as in any way affect the environment and the very life of the region; this is a necessary condition for ensuring the conservation of biodiversity.

119. The implementation phase of the PBP began in the Chocó biogeographical region in March 1993, when a great many complex social movements were taking place at the same time. Noteworthy among these were the processes involved in the organization of the Black communities in line with transitional article 55 of the Constitution and Act No. 70 of 1993; the processes of organization of the indigenous communities; the reorganization of institutions concerned with environmental protection; and the intensification of economic processes based on extraction of the natural resources of the region.

120. Taking into account the complexity of the regional scenario, the multifarious and often conflicting interests of the various regional players and, in general, a situation of continuing change, the PBP has had to devise and develop various strategies of participation, consultation and coordination with regional players.

121. To begin with and after a process of public information and debate on the objectives, goals, strategies and activities proposed under the project, various operational processes were initiated, especially with Black and indigenous community organizations, NGOs, academic institutions and local and regional public bodies. The strategic thrust of activities in the fields of education, communication and social organization has been towards the identification of local initiatives and, through support for those initiatives, the strengthening of the managerial capacity of the communities and organizations promoting or encouraging them. This is reflected in improved capacity to form working teams and to propose and plan activities conducive to the conservation of biodiversity, culture and territory.

122. To supplement the foregoing activities, support has been given to projects formulated by community organizations for the characterization and management of the territory, the evaluation of systems of production, the implementation of pilot production projects, the identification of local reserves and the marking out of permanent plots, etc. These initiatives

generally include training processes which, combined with practical experience, enable us to harness conceptual resources and methodological instruments for assessing and strengthening the communities' capacity for managing, through the organizational processes, their own social construction undertakings.

Legislative proposals on behalf of the Afro-Colombian community

123. Specific penal legislation. The problem of racial discrimination in Colombia has only just reached the "phase of institutional recognition". Civil society, for its part, and the Black communities themselves are only now beginning to realize the seriousness of some reprehensible forms of behaviour, inherited from our colonial history, which still underlie, consciously or unconsciously, the thinking and practice of many Colombians, as was found by the United Nations Special Rapporteur on racism, racial discrimination, xenophobia and related forms of intolerance.

124. The question is nevertheless beginning to arouse interest at the regional level as well. At a recent forum on "alleviation of poverty for minority communities in Latin America", sponsored by the Inter-American Development Bank (IDB), at which a study was submitted on racial topics carried out in nine countries of Latin America, an expert on the subject stated her view that "self-rejection is the deepest wound that racism inflicts on a person's identity". This quotation is considered appropriate inasmuch as, with regard to punitive measures, the level of awareness of communities and individuals who are victims of racial discrimination in all its forms is proving crucial.

125. Despite the foregoing, the Government has achieved major advances with the promulgation of Act No. 70 of 1993, which provides inter alia, in its article 33, that:

> "The State shall punish and prevent any act of intimidation, segregation, discrimination or racism against the Black communities in the various parts of the public administration at the upper decision-making levels and especially in the communications media and the education system and shall ensure that the principles of equality and ethnic and cultural diversity are implemented.
>
> "To this end, the competent authorities shall impose the appropriate penalties in accordance with the provisions of the National Police Code, the provisions governing the mass communications media and the education system, and the other provisions applicable thereto."

126. In addition and in compliance with the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination, the Government has welcomed the model national legislation for the guidance of Governments in the enactment of further legislation against racial discrimination and has accordingly initiated an internal debate intended to involve major sectors of its institutions and, in particular, the Black and indigenous communities themselves in the drafting of a law such as will lead to the adoption of effective measures, which will nevertheless be adapted to the specificities of this problem area within the country, in order to ensure that they produce the desired effects.

127. Legislative and other measures to combat racial discrimination. Following the adopted of Act No. 70 of 1993, giving effect to transitional article 55 of the Constitution, the work done by the national Government, in consultation with the Black communities, to combat racial discrimination and the lack of opportunities for this ethnic group has been quite considerable, as may be seen from the following table.

Summary of regulations giving effect to Act No. 70 of 1993 and supplementary provisions

Relevant article	Subject	Regulatory action
Article 43: Cultural identity	Restructuring of the Colombian Anthropological Institute to include the necessary mechanisms for conducting research programmes on Afro-Colombian culture	Decree No. 2374 of 30 November 1993
Articles 45 and 60: Participation in drafting regulations to give effect to Act No. 70	High Level Advisory Committee with participation by representatives of the Black communities	Decree No. 1371 of 30 June 1994
Article 57: Participation in development	Creation of the Study Committee to draw up a development plan for the Black communities, which will be the frame of reference to ensure that policies under the National Development Plan take account of ethnic diversity and promote the sustainable development of the Black communities. The National Planning Department will be responsible for its financing	Decree No. 2314 of 13 October 1994
Article 56: Participation in development	One (1) representative of the Black communities in the executive boards of the regional corporations	Decree No. 632 of 22 March 1994
Article 48: Participation in development	One (1) representative of the Black communities, appointed by the Government from a shortlist submitted by them, on the National Planning Council	Decree No. 1542 of 1994
Article 67: Department of Black Community Affairs	The Black Community Affairs Department, whose director will have a seat on the National Economic and Social Policy Council (CONPES), is added to the internal structure of the Ministry of the Interior	Decrees Nos. 2313 and 2316 of 13 October 1994

Relevant article	Subject	Regulatory action
Articles 17 and 18: Territorial rights	No awards of lands occupied by the Black communities can be made except to them, until such time as the collective ownership recognized by the Act is regulated and defined	Circular freezing INCORA land title award No. 00795 of 21 January 1994
Article 17: Natural resources	Suspension of permits to explore the Black communities' natural resources results in setting-up of a committee composed of representatives of INCORA, the "Augustín Codazzi" Geographical Institute (IGAC) and the National Institute of Natural Resources (INDERENA) or a body acting for it	INDERENA memorandum OJ-258 of 25 October 1994
Article 17: Non-renewable natural resources	Suspension of mining activities on the Raposo and Anchicayá rivers	Decision No. 151 of 20 June 1994
Article 17: Non-renewable natural resources	Suspension of mining activities in the municipalities of Barbacoas, Magui, Payán, El Charco and Iscuandé in the department of Nariño	Decision No. 240, dated 5 August 1994, of the Ministry of the Environment
Chapter III of Act No. 70 of 1993: Recognition of the right to collective ownership	Principles and scope of action of the Community Councils and the Technical Committee; procedure for collective award of land titles to the Black communities; management and administration of lands awarded; procedure for delivery of a preliminary opinion by the Technical Committee for the processing of licences, concessions and permits and the exploitation of natural resources and access to genetic resources	Decree No. 1745 of 12 October 1995
Article 32: Recognition and guarantees of ethnic education	Educational assistance for ethnic groups; ethnic educators and specially designed curricula: administration and management of institutions	Decree No. 804 of 18 May 1995
Article 40: ICETEX Educational Credit Fund	Facilitates access to and continuance in higher education for the Black population and supports the pursuit of their own forms of development	Decree No. 1627 of September 1996

Relevant article	Subject	Regulatory action
Text replacing Decree No. 1371 of 1994	Enlarges the High-Level Advisory Committee and sets new parameters for the functioning of the Black communities' consultative committees and determines the requirements for registration of Black community organizations	Decree No. 2248 of 22 December 1994
Text replacing Article 12 of Decree No. 2248 of 1995	Whereby the Black Community Affairs Department of the Ministry of the Interior undertakes to provide the technical secretariats for the regional, departmental and capital district advisory committees	Decree No. 2344 of December 1996
Article 42: Black Communities Educational Committee	Ensures involvement of the Black communities in the framing of the ethnic education policy to promote knowledge of their historic contributions to building the country	Decree No. 2249 of 22 December 1995
Chapter V: Mining resources	Regulates the establishment of mining zones for the Black communities and the right to priority access	Consultations under way
Article 58: Creation of management project units under the Social Investment Funds	Aims at developing mechanisms to facilitate access for the Black communities through its projects under the State social investment funds	Consultations under way
Chapter IV: Exploitation of natural resources	Aims at establishing mechanisms to enable the Black communities to obtain better returns from the sustainable exploitation of natural resources	There is a first draft of a decree
Article 54: Recognition of rights of Black communities as developers of plant varieties	Aims at designing mechanisms for the benefit of the Black communities or members thereof who have developed plant varieties or knowledge concerning the use in medicine, nutrition, crafts or industry of animals or plants from their natural environment	Studies under way with the Ministry of Foreign Trade

128. The effective application of some of the provisions set out in the foregoing table can be measured in terms of concrete achievements through the measures summarized below:

(a) High Level Advisory Committee: Decrees Nos. 1371 of 1994, 2248 of 1995 and 2344 of 1996. Through this forum for consultation and the involvement of the Black communities, substantial progress has been made in the drafting of rules to give effect to Act No. 70 of 1993 and in the discussion and preliminary approval of policies, plans and programmes of major importance for the Black communities, such as the Development Plan for the Afro-Colombian Population and the Support Programme for the Development and Ethnic Recognition of the Black Communities;

(b) Black Community Affairs Department: Decrees Nos. 2313 and 2316 of 1994, establishing rules to give effect to article 67 of Act No. 70 of 1993. As the body directing the Government's policy for the Black communities, the Department has helped strengthen the organizing process by establishing public information, training and organizational programmes. This same channel has also been used to formulate the policies and legal instruments whereby progress is being made in the realization of the rights of the Black communities and the consolidation of the Afro-Colombian social movement;

(c) The Loan Fund of the Colombian Institute for Student Loans in Colombia and Abroad (ICETEX): Decree No. 1627 of September 1996. This Decree established rules to give effect to article 40 of Act No. 70 of 1993, set up the Special Remissible Loan Fund for Students from the Black Communities and introduced legal instruments for facilitating the entry of Afro-Colombians into public universities. To this end, the national Government was allocated an initial amount of $COL 512,500,000 under the General Appropriation Act for 1996 and $COL 911 million for 1997. Out of a total of some 1,700 students enrolled, 1,509 are at present benefiting from such loans. This Fund makes higher education accessible to students with limited financial means, contributes, through the impact of education on living standards, to reducing the index of unmet basic needs in the Black communities and helps to strengthen and upgrade the grassroots organizations responsible for the monitoring, evaluation and follow-up of projects. In sum, community and academic work is proving conducive to greater knowledge and commitment and a sense of belonging to an ethnic group among Afro Colombian students.

129. Aware that the above-mentioned resources do not meet either the expectations or the needs of the Afro-Colombian population, the Government is currently taking steps to obtain resources from international cooperation, in accordance with the instructions of the President of the Republic himself, as was indicated in the speech reproduced in another part of this report.

130. Political and social involvement of the Afro-Colombian population. In accordance with articles 2 and 7 of the Constitution, the Colombian State recognizes that its aims include facilitating participation and protecting the ethnic and cultural diversity of the nation. Further, it affirms the principle of equality of opportunity, while maintaining due respect for differences, as a mechanism for building the nation State and ensuring a decent life for all its members.

131. The Afro-Colombian and "raizal" communities have played a significant role in Colombian development through their characteristically rich and

diverse culture, through their contribution to national output and through protection of the environment. These groups have set a shining example of peaceful coexistence, harmonious relations with nature, citizen solidarity and deep knowledge of natural resources, all of which the Social Leap Forward - the name by which the present Government's development plan is known - is intended to teach to new citizens. It is nonetheless evident that, on Colombia's varied ethnic and cultural scene, the Black communities have not been adequately recognized and therefore are not participating effectively in country-wide decision-making.

132. In this area, the Colombian State has scored important successes in the advancement of the Afro-Colombian population, whose leaders have been the driving force in the results obtained, among which mention may be made of the putting into operation of the special constituency for Black communities, which is provided for in article 176 of the Constitution and implemented under regulations established by article 66 of Act No. 70 of 1993 and decision No. 071 of 1993 adopted by the National Electoral Council. These new provisions made possible the introduction, in the 1994 parliamentary elections, of an innovative political process for the Black communities, which was conducted with the participation of 12 candidates for seats in the Lower House, who, as members of that ethnic group, obtained a substantial number of votes.

133. Article 66 of Act No. 70 of 1993 was declared unenforceable by the Constitutional Court as a result of a public action of unconstitutionality filed by a citizen who argued that the provision in question violated the principle of equality; while not accepting the arguments submitted by the complainant, the Court did determine that the provision involved procedural irregularities in that, as the rule in question pertained to electoral matters, it should, under the Constitution, have been dealt with through a statutory enactment.

134. With a view to rectifying the procedural error in article 66 of Act No. 70 of 1993, a number of draft laws were submitted to Congress, one of them being designated as urgent in a message from the President of the Republic. After being approved in the first committees of the Senate and the House of Representatives, as also by the House in plenary session, the draft was rejected in a final debate in plenary session by the Senate, not having received the qualified majority vote needed for its adoption.

135. Otherwise, the Black communities are progressing in the enjoyment of their rights by acceding to other areas of participation, as can be seen from the following table (see also para. 115):

Areas in which the Black communities participate and take concerted action with the Government

Authority	No.	Mode of selection	Function
Special constituency for elections to House of Representatives	2	Popular vote	Legislative
High-Level Advisory Committee	24	Assembly of grass-roots organizations	Formulation of policies, exchange of views and consultation with the State
Departmental and district consultative committees		Assembly of organizations	Exchange of views, consultation and participation at regional level
Chocó	30		
Antioquia	30		
Valle	30		
Cauca	30		
Nariño	30		
Risaralda	30		
Atlántic coast	30		
San Andrés	30		
Santa Fe de Bogotá	30		
National Educational Committee	18	Assembly of organizations	Formulation of policy for ethnic education
Departmental Educational Committees:		Assembly of organizations	Determining the ethnic education policy and advising on its implementation
Chocó	3		
Antioquia	3		
Valle	3		
Cauca	3		
Nariño	3		
Risaralda	3		
Atlántic coast	3		
San Andrés	3		
Santa Fe de Bogotá	3		
National Planning Council	1	Appointed by the Government	Formulation of development policy
National Agrarian Reform Council	1	Appointed by the High-Level Advisory Committee	Formulation of agrarian policy
Regional coordination committee for collective land title awards in the Black communities and demarcation of indigenous resguardos	1	Assembly of organizations of the Black communities of the Pacific area	Management of the collective land title award process and participation of the Black communities therein

Authority	No.	Mode of selection	Function
Advisory Board of the Special Loan Fund for students from the Black communities	2	Election of the National Educational Committee	Advisory assistance to the Special Loan Fund and choice of beneficiaries
National level			
Regional level			
Chocó	3	Election of Departmental Educational Committees	
Antioquia	3		
Valle	3		
Cauca	3		
Nariño	3		
Risaralda	3		
Atlántic coast	3		
San Andrés	3		
Santa Fe de Bogotá	3		
Pacific Plan	1	Appointment of the High-Level Advisory Committee	Investment in infrastructure and development of the Black communities of the Pacific area
Board of Directors, University of the Pacific	1	Delegated by the National Educational Committee	

IDB PROGRAMME (PACIFIC PLAN)

136. The previous Government put this programme into operation with the aim of promoting sustainable development in the Pacific region. The activities of the IDB Programme (Pacific Plan) in the pursuit of its overall objective of "promoting the sustainable human development of the Pacific region of Colombia" are highly relevant to the objectives and strategies of the "Programme in support of the development and ethnic recognition of the Black communities" (CONPES document No. 2909 of 1997).

137. The specific objectives pursued under the IDB Programme (Pacific Plan), through its component projects, are: (a) to increase the managerial capacity of regional agencies such as municipal and departmental administrations, funding organizations, NGOs and political and community leaders; (b) to improve the quality and coverage of essential services: health, education and basic sanitation; and (c) to develop sustainable alternative product lines.

138. The area of influence of the Programme covers 40 municipalities in the Departments of Chocó (21), Valle (Buenaventura), Cauca (8) and Nariño (10), where its main beneficiaries are Afro-Colombians, since they represent 90 per cent of the inhabitants of Colombia's Pacific area, whose population totals approximately 1 million. The remaining 10 per cent consist of indigenous persons (4 per cent) and persons of mixed race (6 per cent).

139. The present report assesses the implementation of the Programme during the period 1995-1997 through a review of each of its components: health, education, basic sanitation, productive activities and institutional development - regional planning. It also reports on achievements and shortcomings during the period under review and on projections for 1998. The

activities referred to are not broken down by operating years, since the implementation of projects takes place in different financial periods. Hence the great majority of the projects financed from budgetary appropriations for the year 1997 are not yet being implemented.

140. As part of the improvement of basic services, the IDB Programme (Pacific Plan) has developed numerous activities aimed at achieving the objective of "improving the quality and extending the coverage of the essential health, basic sanitation and education services".

141. Basic sanitation. In the area of basic sanitation, the expenditure for 1995-1997 totals $COL 10,896 million, allocated to pre-investment and investment for increasing the coverage of piped water, sewerage and solid waste management services. The objectives in these sectors are:

Establishment of inventories of sanitary services and drawing up of basic sanitary improvement plans in some municipalities;

Improvement of the piped water systems in Quibdó, Buenaventura, Guapi and Tumaco, with emphasis on the quality of the water supplied;

Institutional strengthening of the Local Corporations for the Operation of Services in Buenaventura, Quibdó and Tumaco and of the Water Supply Units, so as to ensure the projects' sustainability through technical training and administrative and financial measures for the operation and management of the piped water and sewerage systems.

142. Health. For the same period a total of $COL 6,572 million has been invested in this programme component to improve the coverage of health services through measures for the extension, remodelling and construction of basic facilities and the development of health promotion and disease prevention activities. At the same time, the Programme has contributed to the strengthening of health service systems through the management of resources and the provision of transport and radio equipment for the emergency care networks. The objectives of the sector are:

Furtherance of the process of the decentralization of health services in 39 municipalities through the financing of the Sectoral Health Plans and the formulation of the basic health care plan for Buenaventura;

Improvement of the existing infrastructure of 90 per cent of the health care centres in the region (provision of equipment, remodelling and expansion);

Introduction of mobile health teams to provide basic care, health promotion and disease prevention for the rural population and thereby improve their access to basic services.

143. Education. During the period 1995-1997, the Programme invested $COL 4,476 million, which were used to finance activities designed to improve the planning and managerial capacity of the sector, as a strategy for improving the quality and extending the coverage of education in the region. The following activities were funded:

Technical assistance for the design and implementation of Educational Facilities Projects (PEIs) in 38 municipalities;

Acquisition and/or production of physical equipment and services for educational facilities in 32 municipalities;

Formulation of Municipal Educational Plans (PEMs) and measures for institutional development and educational research in 20 municipalities;

Adaptation, renovation and extension of infrastructure in educational facilities for 11 municipalities.

144. Productive activities. During this period, investments amounting to $COL 2,831 million were made for the implementation of the following activities:

Studies and research on productive projects: designing a strategy to mitigate the environmental impact of mining; cataloguing pelagic and demersal hydrobiological resources in the Colombian Pacific; cataloguing productive systems in the Colombian Pacific area; and strengthening production facilities for the indigenous population of that area;

Devising plans for development of tourism in the Department of Chocó and the municipalities of Tumaco and Guapi;

Strengthening of small businesses in Buenaventura, Guapi, Tumaco and Quibdó through technical assistance, training and channelling of credit resources in Quibdó, Guapi, Tumaco and Buenaventura;

Upgrading of plant for the industrial processing of *borojó* fruit, rice and coconut.

Interagency agreements were also concluded with some ministries to stimulate activities in the production field.

145. Institutional development. Resources in the amount of $COL 4,743 million have been invested in this programme component, mainly in support of the following activities:

Preparation of plans for municipal development;

Modernization of 13 municipal administrations in Valle, Cauca and Nariño and in all the municipalities of the Department of Chocó;

Education of civil society in civic responsibilities; institutional strengthening of women's organizations, Black and indigenous communities and regional planning councils.

146. Activities have also been carried out in support of national efforts in the field of regional development, planning, including:

Setting up of the Technical Committee on Regional Planning of the IDB Programme (Pacific Plan), on which the following bodies are represented: Ministry of Economic Development, Ministry of the Environment, National

Planning Department, Agustín Codazzi Geographical Institute (IGAC), the Biopacific Institute and the National Technical Unit of the IDB Programme (Pacific Plan);

Drawing up of regional development plans for the municipalities of Olaya Herrera-Bocas de Satinga, Tumaco, Barbacoas and El Charco in Nariño, Guapi, Argelia and El Tambo in Cauca and Quibdó in Chocó; a basic mapping survey of the municipality of Buenaventura.

147. Results achieved in the management of the Programme. The main achievements of the Programme can be summarized as follows:

Assigning financial resources to the region in pursuance of a sizeable portfolio of projects, cooperating in their preparation and speeding their passage through the National Co-funding System;

Assistance in the preparation of municipal development plans and sectoral plans, which have generated participatory processes directed towards solving local problems in the areas of health, education, basic sanitation and productive activities;

Institutional strengthening of municipal administrations, of women's organizations and of youth and political leadership through training activities;

Establishment of the Programme's institutions in the region and acquisition of considerable experience that can be drawn on in the pursuit of sustainable human development for Colombia's Pacific area.

148. Actions planned for the 1998 programme period. During the current period, the IDB Programme (Pacific Plan) will focus its activities on strengthening productive activities, improving the social infrastructure (health, basic sanitation and education) and, in the institutional field, strengthening community organizations and municipal administrations, together with the consolidation of a project to set up a region in Colombia's Pacific area.

149. For the Programme's 1998 investments in each of these fields, the following policies have been determined:

Complementarity between the resources of the Programme and regular public expenditures in this region. In other words, the earmarking of resources is not a substitute for the exercise of the responsibilities and competence of the regional authorities or of the institutions in the sectors where the Programme operates;

The Programme's resources will be channelled towards supporting processes under way and to completing projects initiated with regard to basic facilities and institution-building processes;

Support will be given to activities and experiments that will result in new strategies and development policies for the Pacific area.

150. As the Programme has not finalized its annual operating plan for 1998, the broad outlines of the work to be undertaken for each component are indicated below:

(a) Basic sanitation: Stocktaking of sanitary facilities and preparation of basic sanitation plans, development of education on sanitary and environmental subjects, completion of infrastructural projects already underway and strengthening of local operating agencies;

(b) Health: Support for the decentralization of health services through technical assistance to municipalities and the development of local systems and the social security system; health promotion and disease prevention activities for the rural and marginalized urban population through mobile teams; support for the preparation and implementation of regional health plans for the territories inhabited by the Black and indigenous communities; and follow-up of infrastructural projects;

(c) Education: Assistance with the implementation of Educational Facilities Projects (PEIs), preparation and implementation of Municipal Educational Plans (PEMs) and Community Ethnic Education Projects (PECs) for the indigenous and Black communities, completion of infrastructural projects and outlining of educational policy for the Pacific area;

(d) Productive activities: Planning of an integrated strategy for the development of production in the Pacific area; investment in all phases of the production cycle in the small business, tourist and agro-industrial processing sectors, as well as in infrastructure;

(e) Institution-building: Support for the planning and management of local development, strengthening of community organizations and creation of forums for regional discussion and consultation that will contribute to the development of the Pacific area as a region;

(f) Regional planning: Support for the preparation and implementation of regional development plans in the Pacific area, creation of forums for consultation between the agencies and members of civil society involved and establishment of an inter-agency information system to take stock of experience in the preparation and implementation of development plans in the Pacific area.

151. The IDB Programme (Pacific Plan) was launched with initial funding of US$ 71.4 million made up of a loan of US$ 40 million and a non-reimbursable technical cooperation grant of US$ 10 million approved by the Inter-American Development Bank, together with a national counterpart contribution of US$ 21.4 million. Its implementation, planned for a period of five years, began in 1995.

IV. LEGAL REMEDIES AVAILABLE TO THE AFRO-COLOMBIAN COMMUNITIES FOR ACTS OF RACIAL DISCRIMINATION

152. The legal remedies available to the Black communities for acts of racial discrimination are as new as the incorporation into the Colombian legal system of specific rights in favour of this ethnic group, progress in the organization of these communities and recognition by the State that racism,

racial prejudice and racial discrimination exist in Colombia. Despite this consideration, there has been a very important development, which we will refer to as the "Cimarrón case" and which, in view of its significance, is described in detail as an example of what is becoming an effective tool in action to combat racism.

153. Constitutional Court judgement No. T-422/96 of 10 September 1996. Reference: Case No. T-95672. Plaintiff: Germán Sánchez Arregoces. Judge: Dr. Eduardo Cifuentes Muñoz. Issues: Positive differentiation in favour of the Black community, by which the highest Constitutional Court protected the right of the Black community of the district of Santa Marta to be represented in the District Education Board, a participatory body in which seats are held by some social sectors, including ethnic groups. After rejecting the local authorities' strict interpretation and the arguments by the judges of first and second instances, who refused to recognize the existence of the Black communities in this large city, the Constitutional Court undertakes to study the fundamental rights of the Black communities and argues along the following lines:

> "The ruling by the Tribunal is based on some specific conditions which it attributes to the concept of 'community' and which, in its view, are not met in Santa Marta. Its argument is backed up by the results of the eye-witness inspection carried out. The Court notes that there are serious shortcomings in this regard which make the argument meaningless and show that it has no scientific basis. Instead of constituting anthropological evidence, the inspection was basically limited to determining that there are Black students in some schools and to asking the teachers whether or not they were discriminated against.
>
> The slightness of the evidence stands in contrast to the requirement of the concept of 'community' laid down in the judgement. The requirement that it must be 'a race without mixtures or with the smallest possible number of mixtures' overlooks the fact that, apart from being unsustainable historically, the idea of a 'pure race' cannot be a key factor in the make-up of an ethnic group. Otherwise, the concepts of tolerance and fraternity on the which the constitutional principle of ethnic and cultural plurality is based would be meaningless.
>
> The condition that the community must have a specific spatial basis so that it may be 'especially differentiated from other groups' does not appear acceptable if it is applied to groups which were subjected to ill-treatment in the past, as well as to constant pillaging and persecution. The history of Colombia has sadly been forged by the violent theft of land from the indigenous peoples and the forced expatriation of Blacks from Africa who were torn away from their land to work on foreign soil. It will be understood that acceptance of the Tribunal's opinion would lead to a lack of protection for the ancestral communities and those from Africa, particularly the ones trapped in cities and on farms and ranches.
>
> As an additional criterion for a human group to qualify as a community, 'socio-economic physical unity which takes the form of groups of dwellings inhabited by families whose main occupation is farming',

may, of course, help identify a community in some cases. In general, however, it cannot be maintained that it is a constant feature of a community, which may exist quite independently of such a circumstance whenever cultural patterns and traditions come together strongly and influentially enough to create the group's internal unity and the related external differentiation.

It is also not necessary for the formation of a community, as the Tribunal suggests, that the link which unites its members should be specifically reflected in legal and formal terms in an association or similar body. The group identity may have implicit manifestations which in themselves serve to exteriorize the integration of its members on the basis of expressions which bring them together in a sense that is relevant to the preservation and protection of their distinctive cultural characteristics.

The Court considers that, in respect of race, a distinction must be drawn between the promotional equality measures enacted by the Congress. The legislation enacted to give effect to transitional article 55 of the Constitution requires a strict definition of the term 'Black community', since it is the subject which has to be especially benefited by the legislation, whose purpose is to recognize the right to collective ownership of the uncultivated land it has historically occupied. In fact, Act No. 70 of 1993 defines both the term 'Black community' and the term 'collective occupation'. The first is the 'group of families of Afro-Colombian origin who have their own culture, a shared history and their own traditions within the countryside-town relationship and who maintain awareness of an identity which sets them apart from other ethnic groups' (arts. 2-5). The second is the 'historical and ancestral settlement of Black communities on land for collective use, which is their habitat and on which they now engage in their traditional practices of production' (arts. 2-6).

Even though the Constitution provides for specific promotional equality legislation in favour of the Black population, this does not mean that general protection measures that may take the form of affirmative action based directly on article 13 of the Constitution cannot be adopted in respect of the remainder of the population of this origin. In this case, the concept of the 'Black community' could not have the same circumscribed meaning as under transitional article 55 of the Constitution. The general promotional equality that would possibly benefit the country's Black population would not be linked to recognition of a kind of collective ownership based on ancestral occupation of parts of the national territory. In fact, in this case, positive differentiation would correspond to recognition of the social marginalization to which the Black population has been subjected and which has adversely affected its access to opportunities for economic, social and cultural development.

Legislation which takes account of the racial factor is admissible only in these terms because, as is well known, race can usually not give rise to separate treatment under the law. However, as is the case of social groups which suffered persecution and unfair treatment in the past that explain their present prostration, special legal treatment

designed to create new living conditions tends to establish social equality and consolidate internal peace, thereby assuming constitutional legitimacy.

It should be noted that, unlike legislative measures mandated by transitional article 55 of the Constitution and others of the same kind, affirmative action is not designed to preserve the cultural singularity of a human group. The socio-economic information on which such action is based reflects a position of obvious weakness or asymmetry in relation to the rest of society. Accordingly, the legislation is intended to integrate the group in question into society in a fuller way. Its purpose is thus to remove obstacles to material equality and deal with the causes that give rise to it, without, of course, eliminating the typical cultural features of a particular community.

Giving formerly marginalized groups broader possibilities of taking part in social processes is a way of trying to reduce their power deficit in global society, especially in matters such as education, which are of concern to all. Moreover, the general interest in such matters is enriched by the cultural contributions of the various communities which live together in Colombia and becomes a pluralist expression paving the way for the various meanings of life which arise out of social interaction.

The exclusion of the Black community was therefore a symptom of segregation, which was unsustainable under the Constitution and contrary both to equality and to the general interest.

In the opinion of the Court, by regulating the composition and purposes of District Education Boards, article 160 of Act No. 115 of 1994 introduced a general promotional equality measure designed to benefit the Black community. The Boards, whose purpose relates to educational goals, plans and policies, are composed of persons and representatives of various sectors, including 'a representative of the Black communities, where such exist'. The Act uses the racial criterion, which is, in principle, prohibited by the Constitution, for the sole purpose of introducing positive differentiation, which is, in the Court's opinion, admissible. The participation of a traditionally marginalized population in genuine decision-making power and in the system governing education is a key to bringing about its full integration into society and respect for and the continuation of its valuable cultural contribution.

One way of ensuring in future that education is not an area of discrimination may be for representatives of the Black population to be included in District Education Boards together with the representatives of other groups and sectors of society and the State, as the Act tries to do.

The Tribunal wrongly applied strict criteria which do not reflect its general promotional purpose to the concept of 'Black community' referred to in the Education Act. In this connection, a finding that there was a sizeable Black population in the city and among the school student body would have been enough to determine whether a

representative of the Black population should be appointed to the District Education Board. Sometimes, however, discrimination against a group is reflected in the fact that the members of this group are invisible as far as the dominant group is concerned and this explains that the dominant group may deny facts which are public and well known, such as the Black presence on the Atlantic coast of the country and its significant contribution to Colombian culture.

This does not mean promoting racism. On the contrary, Black participation in the Board in question stimulates social integration and cultural plurality. This is precisely the purpose of the Education Act. The mistake by the local authorities prevented a legislative measure on positive differentiation from being fully effective and consequently resulted in a clear-cut and flagrant violation of article 13 of the Constitution.

The violation of the right to equality is of a collective nature, but it also individually affects the members of the Black race who live in the city of Santa Marta. The plaintiff himself may be regarded as one of the persons affected by the administrative error, since the social development of the population to which he belongs and for which he is legitimately fighting is not unrelated to the respect which the authorities owe to the higher rules which have created an opportunity for affirmative action in its favour.

In view of the circumstances, protective action is appropriate with a view to giving effect without delay to a specific legislative measure relating to positive differentiation in favour of a traditionally marginalized social group. For these reasons, the Court decides to protect the right to equality of German Sánchez Arregoces and the Black population living in the tourist, cultural and historical district of Santa Marta. It therefore orders the Mayor of the tourist, cultural and historical district of Santa Marta and the Director of the Santa Marta District Educational Department to appoint, as indicated below, a representative of the Black community of the district in question within 45 days of being notified of the present judgement."

V. REPLY TO THE MAIN SUBJECTS OF CONCERN, SUGGESTIONS AND RECOMMENDATIONS OF THE SPECIAL RAPPORTEUR AND THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

A. Visit by the Special Rapporteur

154. In reply to an invitation by the Government of Colombia and in the context of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination, the Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr. Maurice Glèlè-Ahanhanzo, visited the country from 28 June to 15 July 1996. The purpose of the visit was to hold discussions with the Colombian authorities on the obstacles preventing the full implementation of measures designed to combat racism and racial discrimination and on the concerns of non-governmental organizations which transmitted information to the Special Rapporteur concerning the persistence of racism and racial discrimination in various forms.

155. In his report to the Commission on Human Rights (E/CN.4/1997/71/Add.1), the Special Rapporteur states that, during his visit, he focused his attention on the Afro-Colombian and Amerindian communities, which he says are the communities most exposed to racism and racial discrimination. The Arabs or "Turcos" ("Turks"), most of whom are of Lebanese origin, and the Jews are well integrated and have no problems of racism or racial discrimination (para. 2).

156. In his report on his visits to some communities, the Special Rapporteur "regrets not having been able to visit a resguardo in order to familiarize himself with the living conditions of indigenous populations in rural areas, despite several applications to the Colombian authorities. A final attempt was made in Quibdó, but was unsuccessful owing to the activities of guerrilla movements in the region" (para. 4). He goes on in the report to state his belief, based on the testimony of the representatives of Amerindian organizations who met with him, that he has acquired a sound understanding of the problems confronting the members of the indigenous communities (para. 4).

157. In his report, Mr. Maurice Glèlè-Ahanhanzo draws attention to the progress made by Colombia and says that it is "a country moving towards racial and ethnic integration". He refers to the major institutional change which the adoption of the 1991 Constitution represented, noting, however, that "equality of rights is not yet reflected in everyday life owing to the slow pace of sociological and political change, resistance from the controllers of capital, clashing economic interests and the resultant widespread violence" (para. 9).

158. In referring to the Afro-Colombian communities, he states that "These groups fear the changes in lifestyle imposed by large modern farms and fisheries and the harm to biodiversity caused by the destruction of the environment. But these communities are organizing themselves and mobilizing, together with the forces of progress, to ensure that the hopes raised by the fundamental texts lead to action, since there is a gap between what the law says and what happens in practice; the Colombian Government affirms that it is attentive to this legitimate expectation" (para. 9).

159. After a detailed analysis, in which the Special Rapporteur submits general findings on the problem of racial discrimination in Colombia, the programmes implemented, the serious obstacles to be overcome, the burden of the past, economic and social disparities and administrative delays, inter alia, the report presents the following conclusions and recommendations:

(a) An act on racism and racial discrimination should be adopted;

(b) The programme Sábados Felices should be banned;

(c) The process of distributing land to the Afro-Colombian and indigenous populations should be speeded up;

(d) The administrative problems connected with subsidies to the resguardos should be resolved;

(e) Awareness of human rights should be developed in the army and the police, whose personnel should receive appropriate training;

(f) The Afro-Colombian and indigenous populations should participate more fully in the taking of decisions of concern to them;

(g) More respect should be shown for the economic, social and cultural rights of the populations concerned when development plans are drawn up and implemented, especially in the Pacific region;

(h) The populations should be protected from violence in the areas of conflict (para. 68).

B. The Committee's concerns

160. The Committee on the Elimination of Racial Discrimination considered the sixth and seventh periodic reports of Colombia (CERD/C/257/Add.1) at its 1135th and 1136th meetings (CERD/C/SR.1135-1136), held on 29 February and 1 March 1996, and adopted its concluding observations at its 1149th meeting, held on 11 March 1996 (see A/51/18, paras. 38-59).

1. The lack of reliable statistical and qualitative data (A/51/18, para. 43)

161. It should be pointed out that the Government has made considerable progress in this regard. As far as the indigenous communities are concerned, the statistical information contained in this report will enable the Committee to evaluate the progress made, the measures and policies Colombia has adopted and the results achieved.

162. In the case of the Black ethnic group, no census reports specifically on the Afro-Colombian population and the exercise of its rights, but the steps taken show, as may be seen from the chapters of this report, that we are now very close to providing a satisfactory response to this concern of the Committee.

163. One example is the socio-economic and basic statistical study on the Afro-Colombian population being carried out by the Black Community Affairs Department of the Ministry of the Interior, which is intended to provide detailed information on, inter alia, the estimated population, geographical location and opportunities for jobs, education, development and political participation. This research is being supported by the Bank of the Republic and carried out by the National Consultancy Centre, which devised a methodological strategy dividing the study into two parts, one qualitative and the other quantitative.

164. The qualitative study, which was completed in December 1996, laid the preliminary foundations and, so that the quantitative part of the research might begin, the project was designed to identify perceptions, approaches, feelings and general beliefs in a specific group of Black communities in cities such as Bogotá, Cali, Medellín, Cartagena and Buenaventura. The main topics studied were: meaning of the term "Afro-Colombian", origin and migration of the population, opportunities for advancement in education and employment, political issues, problems of the Black communities, legal issues of the Black communities, personal issues of the Black communities and prospects for the future. During this phase of the research, the following conclusions were reached:

"Among the Black citizens of Colombia, there is a perception of severe racial discrimination, which, although it may not be regarded as institutional, is perceived and genuinely felt by those subjected to it.

The country's race problem has its own characteristics, which are different from those of other States, and it must be dealt with on the basis of the country's own criteria and solutions, which will be derived from the research and analysis.

The research is based on the following variables: estimated population, location, migratory processes, index of unmet basic needs, employment opportunities, quality of employment, educational opportunities, quality of educational, development opportunities, per capita income, participation in decision-making, ethnic origin and political and organizational prospects.

With regard to political participation, two seats were reserved for the indigenous communities in the Senate of the Republic and they are now held by the two representatives who won the 1994 elections.

Article 176 of the Constitution also reserved five seats in the House of Representatives for ethnic groups, political minorities and Colombians living abroad. This constituency was partially governed by article 66 of Act No. 70 of 1993 and decision No. 071 of 1994 and two representatives of the Black communities were elected from among a group of 12 candidates; they received a total of about 130,000 votes.

On the basis of an action of unconstitutionality filed by a citizen, the Constitutional Court declared article 66 of Act No. 70 of 1993 unenforceable. Although the person in question based his claims on an alleged violation of the principle of equality, the Court rejected these arguments, but found that article 66 of Act No. 70 had been adopted in violation of legal formalities. At present, various legislative proposals designed to regulate the five seats for all beneficiaries of article 176 of the Constitution are being discussed by the Congress of the Republic.

The Government is aware that the foregoing is only the start of the measures to be adopted to guarantee equality of opportunity for these ethnic groups."

2. <u>The lack of information on indicators</u> (para. 44)

165. With regard to the indigenous communities, the Government considers that the establishment of the Commission on the Human Rights of Indigenous Peoples, the National Indigenous Territories Commission and the Standing Bureau for Cooperation with the Indigenous Peoples and Organizations, in accordance with Decrees Nos. 1396 and 1397 of 1996, respectively, is designed to guarantee the evaluation and follow-up of Government policies, as well as the protection of the rights of these communities. These mechanisms also enable the communities to take part in finding agreed solutions to pressing problems, the results of which will be evaluated in the very near future.

166. It should be pointed out that government policies have made very significant progress in respect of the Black communities since the establishment of the High-Level Advisory Committee (Decree No. 2371 of 1994), whose management is described in part II of the book entitled "Vision, Management and Projections - Black Community Affairs Department of the Ministry of the Interior", which is annexed to this report.

3. The indigenous communities' lack of control over their environment (para. 45)

167. The environment is one of the priority topics on the Government's agenda for the specific case of the indigenous and Black communities, partly because the areas with the most natural resources are located in territories occupied by these communities, and this confirms the close relationship between biological diversity and cultural diversity. The Government's policies are outlined in the CONPES documents, which have been referred to in this report, together with the legislative measures adopted in this regard. The Government nevertheless admits that the implementation of these policies has not been as effective as it should have been owing to the many factors which are now working against the environment and which require joint efforts at the regional and global levels.

4. The lack of specific penal legislation (para. 46)

168. In this connection, the Colombian Government has received with great interest the model national legislation for the guidance of Governments in the enactment of further legislation against racial discrimination. It regards this model as being of great importance, since it contains guidelines which will help in reviewing special penal legislation. As a first step, it has submitted the model legislation to government bodies for analysis and discussion and plans to hold a debate in which the potential beneficiary communities themselves and the NGOs involved with the issue will take part.

169. The importance of ensuring that such legislation is carefully studied and widely discussed lies in the fact that, in view of the particular features of racial discrimination in Colombia, it is clear that the cultural factor is part of the subconscious of much of our population and does as much damage as conscious action. Punitive measures therefore have to be sufficiently creative and require a consensus on the part of the representatives of the groups concerned in order to guarantee that their results are genuinely those being sought.

170. With regard to the Afro-Colombian population, in particular, the Government hopes, with the adoption of special legislation, to be able to supplement the provisions of Act No. 70 of 1993, article 33 of which provides that:

> "The State shall punish and prevent any act of intimidation, segregation, discrimination or racism against the Black communities in various parts of the public sector at the upper decision-making levels and especially in the communications media and the education system and shall ensure that the principles of equality and respect for the ethnic and cultural identity of the nation are implemented.

To this end, the competent authorities shall impose the appropriate penalties in accordance with the provisions of the National Police Code, the provisions governing the communications media and the education system and the other provisions applicable thereto."

5. Non-implementation of article 5 of the Convention (para. 48)

171. The Government agrees that the problem of racial discrimination in all its forms is of a structural nature that makes it much more difficult to eradicate. The Government is nevertheless optimistic about achieving effective results based on the implementation of the measures referred to in this report and trusts that this expectation is shared by the Committee. It is convinced that the policies referred to in the CONPES documents and the legislation that has been adopted in this regard, together with the high level of awareness and leadership that the indigenous and Black communities have achieved during this five-year period, are a very important sign that steps are being taken in the right direction.

6. Detailed information (para. 50)

172. Although the Government considers that the information provided in the present report meets the Committee's requirements, it is open to requests, suggestions and recommendations that will help provide a more detailed picture of the extent to which the Convention is being implemented.

7. Coordination and evaluation mechanisms (para. 51)

173. In respect of the Black communities, the Government has established a coordination and follow-up mechanism, adopted in CONPES document No. 2909 of 1997, which provides that a committee composed of representatives of the Ministry of the Interior, which presides over it, the Ministry of Finance, the National Planning Department, the Advisory Board for Social Policy and three representatives of the Black communities in the High-Level Advisory Commission is responsible for monitoring the implementation of the Plan of Action. In all cases, the Coordination and Follow-Up Committee will take account of the recommendations by the High-Level Advisory Commission. The Committee will meet three times a year.

174. Similarly, the Directorate-General for Indigenous Affairs of the Ministry of the Interior is responsible for the evaluation and follow-up of government policy in respect of the indigenous communities.

8. Mandatory provisions of article 4 of the Convention (para. 52)

175. With regard to the dissemination of ideas based on racial superiority or hatred, incitement to commit acts of violence against any race or group of persons of another colour or ethnic origin, the prohibition of organizations and propaganda which promote racial discrimination and the promotion of such activities by the authorities or institutions, the Government is aware of the need to implement provisions relating to the fundamental rights of all inhabitants of the country, including the right to equality and the prohibition of any form of discrimination.

176. In connection with the dissemination of ideas based on racial superiority and hatred, it should be pointed out that the Government welcomes with interest the recommendations by the Special Rapporteur and hopes that the present report offers the replies requested on the various subjects of concern.

177. One recommendation by the Special Rapporteur to which no reply is probably to be found in the points made on the principal subjects of concern and the recommendations of the Committee relates to the Special Rapporteur's request that the programme Sábados Felices should be banned It should be pointed out that, although the Government shares the Special Rapporteur's concern, as do many Colombians, it is of the opinion that the best alternative is not to suspend the programme.

178. The Government considers that Sábados Felices is a comedy programme which has been broadcast to the homes of millions of inhabitants for 25 years, doing important work of a social nature for which it has received recognition. However, the Government does not reject the complaint by spokespersons of the Black communities and the recommendations by the Special Rapporteur, who argue that this programme contains episodes expressing negative values which undermine the self-esteem and cultural identity of particular groups of persons and which are assuredly not the result of any intention to discriminate against such groups. In particular, most of the jokes about persons belonging to the "Black race" are characterized by valuations of their intellectual, social, cultural and linguistic inferiority and do nothing to help increase Colombia's awareness of itself as a multi-ethnic and multicultural nation.

179. Despite the foregoing, the Government believes that this programme can help eliminate racial discrimination, racism and racial prejudice in Colombians by promoting the positive values of ethnic groups, most of which are subjected to racial and cultural intolerance, as well as to low social standards and poverty.

180. For these reasons and quite apart from any legal considerations, the Government considers that the best solution is to try to contact the producers of Sábados Felices to draw their attention to the importance of the concern expressed by the Special Rapporteur and make this case an example of what Colombian television should be and the role that the media and television in particular can play in bringing about equality and respect for difference.

9. Attention to migration processes (para. 53)

181. In recent years, Colombia's internal conflict has unfortunately become yet another factor in migration and particularly in internal displacement. This is the form taken by the forced displacement of persons, many of whom belong to indigenous and Afro-Colombian families and communities which have had to abandon their territories as a result of harassment and killings by those responsible for the violence. This situation has worsened the living conditions of many of these communities, thereby hampering Government assistance and the implementation of the policies that have been worked out.

182. CONPES document No. 2804 of 1995 was adopted in order to stop the spiral of violence and mitigate its serious effects on the personal integrity of the

displaced persons and their psychological, affective, social and economic conditions. It set up the National Programme of Comprehensive Care for the Population Displaced by the Violence in order to create minimum conditions of sustainability, in the context of voluntary repatriation and resettlement, for the social and economic reintegration of displaced persons and the full development of the areas expelling or hosting the displaced population.

183. On the basis of the evaluation of the Programme's implementation, CONPES document No. 2924 of May 1997 was adopted to update and harmonize structures and institutional competence, information systems and the sources of funding for the policy provided for in the 1995 CONPES document. CONPES document No. 2924 of 1997 established the National System of Comprehensive Care for the Population Displaced by the Violence, which is composed of public and private bodies at the national and territorial levels that implement plans, programmes, projects and specific activities to care for the displaced population.

184. In addition, Act No. 387 of July 1997 provided for measures for the prevention of forced displacement and the care, consolidation and socio-economic stabilization of persons internally displaced by the violence. It set the objectives of the National Plan of Comprehensive Care for the Displaced Population and established the National Fund for such care. Measures on the establishment, constitution and objectives of the national comprehensive system were also adopted.

10. Unlawful orders and impunity (para. 54)

185. On 9 September 1998, the Government submitted a bill to the Congress of the Republic to amend the Military Code of Criminal Justice and Criminal Proceedings which takes account of recommendations by various international organizations and is a big step forward in relation to due obedience, which may be invoked only on the basis of a lawful order. The bill also defines the limits between military criminal justice and ordinary criminal justice, in accordance with the guidelines drawn up by the Constitutional Court in judgement No. C-358/97, which makes a distinction between acts regarded or not regarded as having been committed in the line of duty; maintains the military courts, but removes from their jurisdiction the trial of crimes against humanity such as torture, genocide and enforced disappearance, crimes against sexual freedom and human dignity and conspiracy to commit crimes, which includes forming, advocating and taking part in private justice groups; separates command functions and jurisdiction to try members of the military; makes the right to bring criminal indemnification proceedings part of military criminal proceedings; and restricts the use of the procedural institution of the examining officer and rulings according to equity to specifically or typically military offences.

186. This bill reflects the Government's undertaking to try to establish conditions guaranteeing and promoting the lawfulness of military criminal justice and its strengthening and modernization.

187. The Government also submitted a bill to Congress characterizing the crimes of enforced disappearance and genocide and increasing the penalty for the crime of torture.

11. Right of indigenous communities to their land (para. 55)

188. As shown in this report, the Government's action to protect the territorial rights of the indigenous and Afro-Colombian communities is based on a clear-cut decision to which effect is being given through joint efforts by the State and the communities and which will hopefully be reflected in more encouraging results in the next report.

12. Judicial remedies (para. 56)

189. In this connection, the Committee will see that the present report already refers to a case which we hope will become a model for future action by the Afro-Colombian communities and the Government, which is using all the necessary legal instruments to combat racism in its various manifestations.

13. Technical assistance (para. 57)

190. Despite the complexity of the situation with regard to public order, Colombia, which is aware of the importance of cooperation with the international community in order to solve this problem, has taken up the challenge and is committed to working without respite for respect for human rights and international humanitarian law within its borders; to opening up to the scrutiny of intergovernmental organizations and international non-governmental human rights organizations; and to advocating the implementation of international instruments on these questions.

191. It has accordingly invited and hosted the visits of United Nations special rapporteurs and working groups and representatives of the Inter-American Commission on Human Rights and various non-governmental human rights organizations. In February 1977, the Government also expressed its appreciation for the on-site visit that the Inter-American Commission on Human Rights will make in late November and early December this year, for which it is now coordinating and working out the agenda.

192. In addition, the Government has been giving particular attention to and taking a particular interest in the recommendations made by specialized intergovernmental organizations on the policies and measures to be adopted in future with regard to the promotion and protection of human rights.

193. To this end, Decree No. 1290 of 1995 established the Commission to Analyse and Evaluate the Recommendations of International Human Rights Organizations, which is composed of the ministers and heads of government departments related to the topic and which, in accordance with its mandate, has met periodically at the invitation of the Ministry of Foreign Affairs. The Commission has worked on the analysis of the topics and proposals of the greatest relevance for the international community, adopted initiatives to

give effect to them, produced documents on the implementation of such recommendations and is promoting the Human Rights Agenda for 1997 that was launched by the President on 12 December 1996 and announced to the international community on 14 February 1997 in his new year's address to the diplomatic corps and again in his statement at the opening session of the Congress of the Republic on 20 July 1997.

194. The agenda of the 1290 Commission outlines action in relation to problems such as "paramilitarism" (which is misnamed), impunity, so-called "social cleansing", the implementation of a special programme to protect human rights advocates, the problem of internal displacement, the promotion of specific humanitarian agreements, the regulation of the "Convivir" special vigilante and private security services, the in-depth revision of regional justice by the Criminal Policy Council and the formulation of a priority legislative agenda on human rights and international humanitarian law.

List of annexes

1. Programme of support for and ethnic strengthening of the indigenous peoples of Colombia, 1995-1998. CONPES document No. 2773, 5 April 1995

2. Programme of support for the development and ethnic recognition of the Black communities, CONPES document No. 2909, 26 February 1997

3. Publication entitled "Vision, management and projection", Black Community Affairs Department

4. Presidential Directive No. 17, September 1997, "Promotion of institutional management for the benefit of the Afro-Colombian population"

5. Qualitative study on the Afro-Colombian population

6. Constitutional Court judgement No. T-422/96 on positive differentiation in favour of the Black community

7. General policies of the Colombian Government on human rights and international humanitarian law

8. Decree No. 1396 establishing the National Commission on the Human Rights of Indigenous Peoples and Decree No. 1397 of 1996 establishing the Standing Bureau for Cooperation with the Indigenous Peoples and Organizations

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